



November 25, 2004

To the Parties:

**Request by The Board of School Trustees of School District No. 42 (Maple Ridge-Pitt Meadows) (“School District”), public body, under s. 56 of the *Freedom of Information and Protection of Privacy Act* (“Act”)—OIPC File No. 19319**

**1. Purpose of this letter** – This decision responds to the School District’s request that I not proceed with an inquiry under Part 5 of the Act respecting the respondent’s request for review under the Act. For the following reasons, I have decided to exercise my discretion under s. 56(1) of the Act to decline to hold an inquiry in this matter.

**2. Background** – The respondent made a request to the School District in which he asked the School District to “let me know” whether the School District had received the outcome of a “background search” respecting an individual who the respondent named and, if so, the date on which any background check had been received. The School District responded by declining to disclose any information about any background check that might or might not have been undertaken, on the basis that it would be an unreasonable invasion of personal privacy of the individual involved.

The respondent requested a review of the School District’s decision and, after mediation by this office, the School District made a request to this office that the discretion under s. 56(1) of the Act respecting the holding of an inquiry be exercised against holding an inquiry.

**3. Discussion** – Section 56(1) of the Act reads as follows:

**Inquiry by commissioner**

56(1) If the matter is not referred to a mediator or is not settled under section 55, the commissioner may conduct an inquiry and decide all questions of fact and law arising in the course of the inquiry.

This language confers discretion as to whether an inquiry under Part 5 should be held respecting a request for review. As I found in an earlier similar decision, there may be a variety of reasons why that discretion should be exercised one way or another. In my July 9, 2003 decision not to proceed with an inquiry respecting an access request to Simon Fraser University, the question was whether I should decline to proceed with an inquiry on the

basis that s. 22(1) of the Act “clearly protects the requested information and the request for review raises no arguable issue otherwise” (see p. 2). This is a similar case.

I have reviewed the respondent’s and the School District’s submissions in this matter and have decided to exercise my discretion under s. 56 against holding an inquiry under Part 5.

The disputed record clearly contains personal information of a number of third parties that falls under one or more of the presumed unreasonable invasions of personal privacy described in s. 22(3) of the Act, namely those set out in s. 22(3)(b), (d), (g) and (h).

My letter inviting submissions from the respondent specifically noted the burden of proof that he faces, under s. 57(2) of the Act, to show that disclosure would not be unreasonable invasion of third-party personal privacy under s. 22. My letter also made it clear to the respondent that he would “have to show that relevant circumstances, including those found in s. 22(2), favour disclosure” to him, despite the presumed unreasonable invasions of personal privacy under s. 22(3) that I indicated were likely to apply. My letter went on to say that “if you do not give me some reason to believe you could establish (in an inquiry) that s. 22 allows you to have this information, I am likely to decide to end this matter now”.

Nothing in the materials before me, including the respondent’s submission, indicates there is any basis on which those presumed unreasonable invasions of personal privacy are at all likely to be rebutted. Like the Simon Fraser University decision mentioned above, this is a s. 22 case in which an inquiry under s. 56 is not warranted. Such cases will be the exception, and this is one of them.

I note in passing, that, on its face, the disputed record is actually outside the scope of the respondent’s original access request to the School District. As indicated in my letter to the respondent seeking submissions from him, the School District could, on this basis alone, have refused to disclose this record to the respondent.

For the above reasons, no inquiry under Part 5 of the Act will be held and our file will be closed.

Yours sincerely,

**ORIGINAL SIGNED BY**

David Loukidelis  
Information and Privacy Commissioner  
for British Columbia

cc: Brenda Guiltner, Registrar of Inquiries