



Order F24-09

## BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 43

Rene Kimmett  
Adjudicator

February 7, 2024

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**Summary:** The applicant asked the Board of Education of School District No. 43 (School District) to provide him with access to information about his child's educational supports and assistance. The School District disclosed responsive records but withheld some information under ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of third-party personal privacy) of the *Freedom of Information and Protection of Privacy Act*. The adjudicator found that the School District was authorized to withhold some of the information in dispute under s. 13(1) and was required to withhold some of the information in dispute under s. 22(1). The adjudicator ordered the School District to disclose the rest of the information in dispute to the applicant.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, SBC 1996, c. 165, s. 13(1), 22(1), 22(2)(a), 22(2)(c), 22(2)(e), 22(2)(f), 22(2)(g), 22(3)(d), and 22(4)(e).

### INTRODUCTION

[1] A parent of a student (applicant) asked the Board of Education of School District No. 43 (School District) for access to information about his child's educational supports and assistance from the period of 2018 to 2020.<sup>1</sup> The School District provided the applicant with responsive records but withheld some information under ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of third-party personal privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the public body's decision. During mediation by the OIPC, the public body disclosed additional information to the applicant. However, mediation did not resolve the matter and it proceeded to inquiry.

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<sup>1</sup> School District's initial submission at para 2 and Applicant's submission at para 5.

## PRELIMINARY ISSUE

### ***Section 25(1) – public interest disclosure***

[3] The applicant says disclosure of the disputed information is in the public interest under s. 25(1). Section 25(1) imposes a duty on a public body to disclose information when it is in the public interest to do so. Neither the OIPC Investigator's Fact Report nor the Notice of Inquiry includes s. 25(1) as an issue in this inquiry. The Notice of Inquiry, which was provided to both parties at the start of this inquiry, states parties may not add new issues without the OIPC's prior consent.<sup>2</sup> The applicant did not request permission to add s. 25(1) or point to any exceptional circumstances that would justify doing so at this stage. Therefore, I will not add s. 25(1) as an issue in this inquiry.<sup>3</sup>

## ISSUES AND BURDEN OF PROOF

[4] At this inquiry, I must decide the following issues:

1. Is the School District authorized to refuse to disclose the information in dispute under s. 13(1) of FIPPA?
2. Is the School District required to refuse to disclose the information in dispute under s. 22(1) of FIPPA?

[5] Under s. 57(1), the School District has the burden of proving the applicant has no right of access to the information it withheld under s. 13(1).

[6] Under s. 57(2), the applicant has the burden of proving disclosure of the information in dispute under s. 22(1) would not be an unreasonable invasion of a third party's personal privacy. However, the School District has the initial burden of proving the information at issue qualifies as personal information under s. 22(1).<sup>4</sup>

## DISCUSSION

### ***Background***

[7] The applicant's child attended a school within the School District. The applicant is unsatisfied with how the School District developed educational supports for his child.

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<sup>2</sup> Notice of Inquiry dated April 5, 2023.

<sup>3</sup> For similar reasoning, see Order F15-15, 2015 BCIPC 16 at paras 10-11.

<sup>4</sup> Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

**Records at issue**

[8] The School District has partially or entirely withheld information from 25 of the 116 responsive records. These records are emails and email attachments sent between School District employees.

**Advice or recommendations – s. 13**

[9] Section 13(1) states:

The head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.

[10] A public body is authorized to refuse access to information under s. 13(1), not only when the information itself directly reveals advice or recommendations, but also when disclosure of the information would enable an individual to draw accurate inferences about any advice or recommendations.<sup>5</sup>

[11] “Recommendations” include material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised.<sup>6</sup> “Advice” has a broader meaning than the term “recommendations.”<sup>7</sup> It includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact in relation to a future action or an existing set of circumstances.<sup>8</sup>

[12] The purpose of s. 13(1) is to allow public bodies to engage in free and frank discussion of advice or recommendations by preventing the harm that would occur if the deliberative process of decision-making were subject to excessive scrutiny.<sup>9</sup> While the purpose of the provision is to prevent harm, a public body relying on s. 13 is not required to prove that harm may result from disclosure of the withheld information.<sup>10</sup>

[13] If I find the information in dispute would reveal advice or recommendations, I will then consider if any of the categories listed in ss. 13(2) or (3) apply. Section 13(2) identifies certain types of records and information that may not be withheld under s. 13(1). Section 13(3) says a public body cannot use s. 13(1) to withhold information in a record that has been in existence for 10 or more years.

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<sup>5</sup> Order 02-38, 2002 CanLII 42472 (BCIPC) at para 135; Order F17-19, 2017 BCIPC 20 (CanLII) at para 19; Order F20-29, 2020 BCIPC 35 at para 56.

<sup>6</sup> *John Doe v Ontario (Finance)*, 2014 SCC 36 at para 23.

<sup>7</sup> *Ibid* at para 24.

<sup>8</sup> *College of Physicians of BC v British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 at paras 103 and 113-114.

<sup>9</sup> Order 01-15, 2001 CanLII 21569 (BCIPC) at para 22; Order F15-61, 2015 BCIPC 67 at para 28.

<sup>10</sup> Order F15-44, 2015 BCIPC 47 at para 25; Order F15-59, 2015 BCIPC 62 at footnote 31.

*Parties' submissions*

[14] The School District submits the information in dispute is part of an “ongoing internal dialogue within the School District deliberating on how best to deliver educational services to [the applicant’s child] and other students.”<sup>11</sup> The School District submits the individuals involved in this internal dialogue were tasked with providing the School District with their opinions, advice, and input. The School District submits “it is clear on the face of the records that these communications are inherently advisory and are in the nature of policy advice and recommendations within the meaning of section 13.”<sup>12</sup>

[15] The applicant does not make submissions on whether he believes the information in dispute meets the requirements under s. 13. Instead, he submits, among other things, that it is not in the spirit of FIPPA to conceal harm or deceit<sup>13</sup> and that restricting his access to information about his child’s education reduces his ability to advocate for her.<sup>14</sup>

[16] Neither party argues ss. 13(2) or 13(3) applies.

*Analysis*Section 13(1)

[17] For the reasons that follow, I find some of the information withheld from the responsive records would reveal advice or recommendation within the meaning of s. 13(1).

[18] The School District has withheld a School District’s employee’s opinion on the circumstances surrounding the development of a needs assessment for the applicant’s child.<sup>15</sup> I find this information, if disclosed, would reveal advice developed by or for the School District.

[19] The School District has also withheld an email that contains a School District employee’s opinion on how to manage a particular matter.<sup>16</sup> I am satisfied this information, if disclosed, would reveal advice developed by or for the School District.

[20] However, I find the rest of the information the School District withheld under s. 13(1) would not reveal advice or recommendations.

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<sup>11</sup> School District’s initial submission at para 23.

<sup>12</sup> *Ibid* at para 24.

<sup>13</sup> Applicant’s submission at para 27.

<sup>14</sup> *Ibid* at para 31.

<sup>15</sup> Records at page 366.

<sup>16</sup> Records at top of page 371.

[21] I find some of the disputed information would not, on its face, reveal or allow an individual to draw accurate inferences about, advice or recommendations developed by or for a public body.<sup>17</sup> This information relates to an employee asking for feedback on her work; an agreement between employees; and a factual statement. The School District has not met its burden to prove that disclosure of this information would reveal advice or recommendations.

[22] I also find that some of the withheld information has already been revealed elsewhere in the records package.<sup>18</sup> Previous OIPC orders have found that disclosing information for a second time would not “reveal” advice or recommendations<sup>19</sup> and I make the same finding here.

### Sections 13(2) and 13(3)

[23] I conclude none of the circumstances under s. 13(2) apply to the information I find would reveal advice developed by or for the School District. I also find the information in the records has not been in existence for 10 or more years, and consequently, s. 13(3) does not apply.

[24] Given my findings on ss. 13(2) and (3), I conclude the School District is authorized to withhold the information on page 366 and at the top of page 371, but not the rest of the information it withheld under s. 13(1).

### ***Unreasonable invasion of personal privacy – s. 22(1)***

[25] Section 22(1) of FIPPA requires a public body to refuse to disclose personal information if its disclosure would unreasonably invade a third party’s personal privacy.

[26] The School District is withholding some information under both ss. 13(1) and 22(1) of FIPPA. Given that I have found s. 13(1) applies to the information on page 366 and at the top of 371, I do not consider whether s. 22(1) also applies to this information.

[27] The applicant wants access to information about his child, who is a third party to this inquiry. The School District does not argue that it would be an unreasonable invasion of this child’s personal privacy to disclose information about her educational supports and assistance to the applicant. The School District has disclosed most this child’s personal information to the applicant and

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<sup>17</sup> Records at pages 239, 271, and 272.

<sup>18</sup> Records at pages 371, 378, 379, 380, and 381.

<sup>19</sup> Order F20-32, 2020 BCIPC 38 at para 36.

is withholding only one piece of this child's personal information, where it is intertwined with other third parties' personal information.<sup>20</sup>

[28] The applicant also wants access to information about his spouse, who is an employee of the School District and a third party to this inquiry. The personal information I am considering under s. 22(1) does not include the personal information of the applicant's spouse.

[29] Numerous OIPC orders have considered the application of s. 22(1)<sup>21</sup> and, as set out below, I apply the same four-part approach in this inquiry.

*Is the withheld information personal information as defined in FIPPA?*

[30] The first step in the s. 22 analysis is to determine whether the information in dispute is personal information. Personal information is defined in FIPPA as "recorded information about an identifiable individual other than contact information."<sup>22</sup> Information is about an identifiable individual when it is reasonably capable of identifying a particular individual or a small group of identifiable people, either alone or when combined with other available sources of information.<sup>23</sup>

[31] Contact information is defined as "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual."

[32] I find that most of the information in dispute is personal information. For clarity, I find that the School District employee's cellphone number is personal information and not contact information. Whether information is "contact information" depends on the context in which it appears.<sup>24</sup> In this case, the School District employee has provided her personal cellphone number to two colleagues on separate occasions, so she can be contacted about specific, work-related matters after business hours or while she travels between schools.<sup>25</sup> This employee has a business phone number in her email signature, which the School District has disclosed to the applicant. The evidence before me is that this employee does not typically use nor widely share her cellphone number in the ordinary course of conducting business. Based on this context, I find the School

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<sup>20</sup> Records at middle of page 371.

<sup>21</sup> Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.

<sup>22</sup> Schedule 1 "Definitions" of FIPPA.

<sup>23</sup> Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.

<sup>24</sup> Order F20-13, 2020 BCIPC 15 at para 42.

<sup>25</sup> Records at pages 195 and 242 and Table of Records at page 4.

District employee's cellphone number is personal information and not contact information.<sup>26</sup>

[33] I find there is one piece of information that is not personal information. The School District has withheld what appears to be the initials of the school that the applicant's child attended.<sup>27</sup> This information is not about an identifiable individual and, therefore, is not personal information. The School District cannot withhold this information under s. 22(1).

*Is disclosure not an unreasonable invasion of a third party's personal privacy under s. 22(4)?*

[34] The second step in the s. 22 analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). If it does, then disclosure would not be an unreasonable invasion of a third party's personal privacy.

[35] The School District submits that none of the categories in s. 22(4) apply to the information in dispute. The applicant asks that I consider whether s. 22(4)(e) applies.

[36] Under s. 22(4)(e), it is not an unreasonable invasion of a third party's personal privacy to disclose personal information if the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or a minister's staff. Section 22(4)(e) applies to "objective, factual statements about what the third party did or said in the normal course of discharging [their] job duties, but not qualitative assessments of those actions."<sup>28</sup>

[37] I find a small amount of information in dispute is about what School District employees did or said in the normal course of performing their duties as employees of a public body.<sup>29</sup> This information is about an employee explaining administrative steps she will take and another employee asking when a task will begin. I find this information falls under s. 22(4)(e) and, as a result, the School District cannot withhold it under s. 22(1).

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<sup>26</sup> For similar reasoning, see Order F23-43, 2023 BCIPC 51 at para 60; Order F17-39, 2017 BCIPC 43 at para 76.

<sup>27</sup> Records at page 277.

<sup>28</sup> Order 01-53, 2001 CanLII 21607 (BCIPC) at para 40.

<sup>29</sup> Records at pages 176 (duplicate on page 180, 267, and 283) and 275.

*Is disclosure presumed to be an unreasonable invasion of a third party's personal privacy under s. 22(3)?*

[38] The third step in the s. 22 analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(3). If yes, disclosure of that personal information is presumed to be an unreasonable invasion of the third party's personal privacy.

[39] I find s. 22(3)(d) is relevant. Section 22(3)(d) creates a presumption against disclosing personal information related to a third party's employment, educational or occupational history. This section reads:

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if:

[...]

(d) the personal information relates to employment, occupational or educational history,

[...]

[40] Most of the information the School District has withheld is about the educational history of students other than the applicant's child.<sup>30</sup> I find that s. 22(3)(d) applies and disclosure of this information is presumed to be an unreasonable invasion of these students' personal privacy.

[41] The School District also withheld information about employees taking leave.<sup>31</sup> Past OIPC orders have said that this type of information is related to an individual's employment history.<sup>32</sup> I agree and find that s. 22(3)(d) applies and disclosing this information is presumed to be an unreasonable invasion of these employees' personal privacy.

*Considering all relevant circumstances, including those listed in s. 22(2), would disclosure be an unreasonable invasion of a third party's personal privacy?*

[42] The final step in the s. 22 analysis is to consider all relevant circumstances, including those listed in s. 22(2), before determining whether the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy. It is at this step that any applicable s. 22(3) presumptions may be rebutted.

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<sup>30</sup> Records at pages 176, 178, 179, 180, 267, 271, 275, 279, 281-288, 291, 292, 299, 355-365, 380, and 382.

<sup>31</sup> Records at pages 270, 288, and 293.

<sup>32</sup> Order F15-17, 2015 BCIPC 18 at para 36.



[43] The parties raise the following parts of s. 22(2):

(2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,

[...]

(c) the personal information is relevant to a fair determination of the applicant's rights,

[...]

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

[...]

Public scrutiny – s. 22(2)(a)

[44] Section 22(2)(a) requires a public body to consider whether disclosing the personal information is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny. Where disclosure would foster the accountability of a public body, this may be a relevant circumstance that weighs in favour of disclosing the information at issue.<sup>33</sup>

[45] The applicant asks me to consider s. 22(2)(a). The applicant submits that the School District, by withholding information, is removing all accountability and transparency and excluding parents from meaningful consultation about their children's education.<sup>34</sup>

[46] The applicant has not adequately explained how disclosing the personal information of third parties would foster accountability or be desirable for the purpose of subjecting a public body's activities to public scrutiny. As a result, I find s. 22(2)(a) does not weigh in favour of disclosing the personal information in dispute.

<sup>33</sup> Order F05-18, 2005 CanLII 24734 at para. 49.

<sup>34</sup> Applicant's submission at para 46.

Fair determination of the applicant's rights – s. 22(2)(c)

[47] Section 22(2)(c) requires a public body to consider whether the personal information in dispute is relevant to a fair determination of the applicant's rights. If yes, this is a circumstance that may weigh in favour of disclosure.

[48] Previous OIPC orders have said that all four parts of the following test must be met in order for s. 22(2)(c) to apply:

1. The right in question must be a legal right drawn from the common law or a statute, as opposed to a non-legal right based only on moral or ethical grounds;
2. The right must be related to a proceeding which is either under way or is contemplated, not a proceeding that has already been completed;
3. The personal information sought by the applicant must have some bearing on, or significance for, determination of the right in question; and
4. The personal information must be necessary in order to prepare for the proceeding or to ensure a fair hearing.<sup>35</sup>

[49] The applicant makes two types of submissions related to s.22(2)(c). First, the applicant indicates that he needs the personal information in dispute to support a human rights complaint he may wish to make.<sup>36</sup> Second, the applicant submits that his child's personal information should be disclosed to him so he can see if it contains errors and correct those errors, if applicable.<sup>37</sup>

[50] I find the applicant's first line of reasoning does not meet the test under s. 22(2)(c). While the applicant may have a right to pursue a human rights complaint, he has not adequately explained how the personal information in dispute relates to this right or why he needs this information to prepare for a proceeding or ensure a fair hearing. As a result, I find that the applicant has not satisfied the third or fourth parts of the s. 22(2)(c) test.

[51] I also find the applicant's second line of reasoning does not meet the test under s. 22(2)(c). I accept the applicant may have a right to ask a public body, on behalf of his child, to correct his child's personal information. For example, s. 3(1)(e) of the *Freedom of Information and Protection of Privacy Regulation*<sup>38</sup> states:

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<sup>35</sup> Order 01-07, 2001 CanLII 21561 (BCIPC) at para 31; Order F15-11, 2015 BCIPC 11 at para 24.

<sup>36</sup> Applicant's submission at paras 4, 30, and 67.

<sup>37</sup> *Ibid* at paras 4, 17-18, 25, and 42.

<sup>38</sup> B.C. Reg. 248/2022.

3(1) A guardian of a minor may act for the minor in relation to any of the following sections of the Act if the minor is incapable of acting under that section:

(e) section 29(1).

[52] Section 29(1) of FIPPA states:

29(1) An individual who believes there is an error or omission in personal information about the individual that is in the custody or under the control of a public body may request the head of the public body to correct the information.

[53] However, section 29(1) of FIPPA only provides individuals the right to ask a public body to correct factual errors or omissions in personal information and does not require a public body to correct opinions or expressions of judgement.<sup>39</sup> The personal information about the applicant's child is contained in a third party's opinion about this child's educational supports. This is not the sort of personal information that is subject to correction under FIPPA and, as a result, disclosure of the personal information in dispute, even where it relates to the applicant's child, would not assist the applicant in requesting correction of his child's personal information. As a result, I find that the applicant has not satisfied the third or fourth parts of the s. 22(2)(c) test.

[54] Based on the above, I find s. 22(2)(c) does not weigh in favour of disclosing the personal information in dispute.

#### Unfair harm – s. 22(2)(e)

[55] Section 22(2)(e) requires a public body to consider whether disclosure of a third party's personal information will unfairly expose the third party to financial or other harm.

[56] The School District submits that disclosure of some of the other students' personal information about their needs or abilities "could expose them to mental distress or embarrassment or other harms within the meaning of s. 22(2)(e)."<sup>40</sup>

[57] Previous OIPC orders have established that "other harm" includes "serious mental distress or anguish or harassment."<sup>41</sup> However, such harm must exceed "embarrassment, upset or a negative reaction to someone's behaviour."<sup>42</sup>

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<sup>39</sup> Order F19-02, 2019 BCIPC 2 at para 79; Order 02-16, 2002 CanLII 42441 (BC IPC) at para 7.

<sup>40</sup> School District's initial submission at para 36(c).

<sup>41</sup> Order 01-37, 2001 CanLII 21591 (BC IPC) at para. 42 and Order 01-15, 2001 CanLII 21569 (BC IPC) at para. 49

<sup>42</sup> Order F15-29, 2015 BCIPC 32 at para 32; Order 01-15, 2001 CanLII 21569 (BC IPC) at para 49.

[58] The School District's submission suggests that the harm from disclosure may not rise to the level of "other harm" contemplated by s. 22(2)(e) and instead may expose the students to embarrassment. I accept that the students may be embarrassed or upset by disclosure of their personal information, but the School District has not persuaded me that this disclosure would expose these students to "other harms" under s. 22(2)(e). I find s. 22(2)(e) does not weigh in favour of withholding the information in dispute.

Supplied in confidence – s. 22(2)(f)

[59] Section 22(2)(f) requires a public body to consider whether the personal information was supplied in confidence. For s. 22(2)(f) to apply, there must be evidence that a third party supplied personal information to another person and, that, when they did so, the third party had an objectively reasonable expectation of confidentiality.<sup>43</sup>

[60] The School District submits that it is subject to confidentiality obligations under the *School Act* and, therefore, received and holds the other students' personal information in confidence.<sup>44</sup> Section 79(1)(b) of the *School Act* states:

79 (1) Subject to the orders of the minister, a board must

b) ensure confidentiality of the information contained in the student records and ensure privacy for students and their families.<sup>45</sup>

[61] I am satisfied, based on the language of s. 79(1)(b) of the *School Act*, that the School District employees shared the other students' personal information with one another in confidence.

[62] I also accept that the students supplied personal information about themselves to School District employees in confidence. The students may not have been aware of the School District's confidentiality requirements. However, I accept that students, in general, reasonably expect the information they share with School District staff, about their learning, to be kept within their educational support circle. As a result, I find that s. 22(2)(f) weighs in favour of withholding the other students' personal information.

[63] The School District also submits that some of the personal information of its employees is inherently sensitive and implicitly confidential in nature.<sup>46</sup> I am

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<sup>43</sup> Order F11-05, 2011 BCIPC 5 (CanLII) at para. 41, citing and adopting the analysis in Order 01-36, 2001 CanLII 21590 (BC IPC) at paras. 23-26 regarding s. 21(1)(b).

<sup>44</sup> School District's initial submission at para 36(a), citing s.79(1) of the *School Act*.

<sup>45</sup> A "student record" is defined, in the *School Act*, as, among other things, a record of information in written or electronic form pertaining to a student.

<sup>46</sup> School District's initial submission at para 36(b).

not persuaded by the School District's submission on this subject. Some of the information shared is innocuous and not the sort of personal information that someone would expect to be held in confidence.<sup>47</sup> This information includes an employee asking for feedback on a task and general expressions of well-wishes towards a colleague or their family member. I am not satisfied that this information is inherently sensitive, nor do I accept that it was implicitly supplied in confidence. I find s. 22(2)(f) does not weigh in favour of withholding the School District employees' personal information.

Inaccurate or unreliable personal information – s. 22(2)(g)

[64] Section 22(2)(g) requires a public body to consider whether the personal information is likely to be inaccurate or unreliable. Previous orders have found that s. 22(2)(g) may weigh in favour of withholding personal information that is likely inaccurate or unreliable where its disclosure could result in third parties being misrepresented publicly.<sup>48</sup>

[65] The applicant submits that he believes inaccurate information was shared and discussed about his child and that this is part of the reason he requested access to information about his child's education.<sup>49</sup> He suggests this is a relevant circumstance that weighs in favour of disclosure of his child's personal information.

[66] I also considered this argument under s. 22(2)(c), above. As noted in that section of this order, the information about the applicant's child is contained in the opinion of another third party. I cannot make a finding on whether this opinion is factually inaccurate or otherwise unreliable. As a result, I find s. 22(2)(g) does not weigh in favour of disclosure of the personal information in dispute.

Information disclosed elsewhere in the records

[67] Some of the personal information in dispute has been released elsewhere in the records.<sup>50</sup> The School District has not explained why it believes the disclosure of this personal information would be an unreasonable invasion of these third parties' personal privacy in these instances when it has disclosed the same information elsewhere in the records. I agree with previous orders that have found this is a circumstance that weighs in favour of disclosure.<sup>51</sup>

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<sup>47</sup> Records at pages 81, 139, 147, 239, 272, 382, and 383.

<sup>48</sup> Order F23-102, 2023 BCIPC 118 at para 33.

<sup>49</sup> Applicant's submission at para 42.

<sup>50</sup> Records at pages 378 and middle of page 371.

<sup>51</sup> Order F21-03, 2021 BCIPC 3 at para 38; Order F22-31, 2022 BCIPC 34 at para 83.

*Summary of findings about s. 22(1)*

[68] In summary, with one exception, all the information in dispute under s. 22(1) is personal information.

[69] I find that a small portion of this information is about the position, functions or remuneration of School District employees and that disclosure of this personal information would not be an unreasonable invasion of these third parties' personal privacy, per s. 22(4)(e).

[70] I find that some of the personal information in dispute relates to the educational or employment histories of third parties and that disclosure of this personal information is presumed to be an unreasonable invasion of these third parties' personal privacy under s. 22(3)(d).

[71] I find that the applicant did not successfully rebut the s. 22(3)(d) presumption and, as a result, the School District is required to withhold personal information that relates to the employment or educational histories of third parties.

[72] I also find that the applicant has not met his burden to prove that disclosing the School District employee's personal cellphone number would not be an unreasonable invasion of that employee's personal privacy,

[73] However, after weighing all relevant circumstances and reviewing the records, I find that the applicant has established that the remainder of the personal information in dispute, if disclosed, would not be an unreasonable invasion of a third party's personal privacy.

**CONCLUSION**

[74] For the reasons given above, I make the following order under s. 58 of FIPPA:

1. Subject to item 3 below, I confirm, in part, the School District's decision to refuse access to the information in dispute under s. 13(1).
2. Subject to item 3 below, I require the School District to refuse access to the information in dispute under s. 22(1).
3. The School District is not authorized under ss. 13(1) or required under 22(1) to refuse to disclose the information that I have highlighted in green on pages 81, 139, 147, 176, 180, 239, 267, 271, 272, 275, 277, 283, 371, 378, 379, 380, 381, 382, and 383 in a copy of the records provided to the School District with this order. The School District is required to give the applicant access to this highlighted information.

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4. The School District must provide the OIPC registrar of inquiries with a copy of its cover letter and the records it sends to the applicant in compliance with item 3 above.

[75] Pursuant to s. 59(1) of FIPPA, the School District is required to comply with this order by March 21, 2024

February 7, 2024

**ORIGINAL SIGNED BY**

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Rene Kimmett, Adjudicator

OIPC File No.: F21-86958