



Order P25-05

## Collingwood School

Carol Pakkala  
Adjudicator

March 26, 2025

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**Summary:** A lawyer, acting for a student and his parents, requested access to the student's personal information held by Collingwood School (School). The School provided records but refused access to some information under ss. 23(3)(a) (solicitor-client privilege) and 23(4)(c) (personal information about another individual) of the *Personal Information Protection Act* (PIPA). The adjudicator found the School was required to refuse to disclose most of the information in dispute under s. 23(4)(c). The adjudicator ordered the School to disclose a small portion of work product information that was simultaneously the student's personal information.

**Statutes Considered:** *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 1 (definition of "contact information", "personal information" and "work product information"), and 23(4)(c).

## INTRODUCTION

[1] A lawyer, acting for a student (Student) and his parents (collectively, the applicants), requested access to the Student's personal information held by Collingwood School (School).

[2] The School provided the applicants with records but withheld some information under ss. 23(3)(a) (solicitor-client privilege) and 23(4)(c) (personal information about another individual) of the *Personal Information Protection Act* (PIPA).<sup>1</sup> The applicants asked the Office of the Information and Privacy Commissioner (OIPC) to review the School's decision to withhold information.

[3] Mediation by the OIPC did not settle this matter, and the applicants requested it proceed to this inquiry. Prior to the inquiry, the applicants narrowed

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<sup>1</sup> From this point forward, unless otherwise specified, whenever I refer to section numbers I am referring to sections of PIPA.

their request to certain pages of the records.<sup>2</sup> Those pages only contain information withheld under s. 23(4)(c) (personal information about another individual). I conclude therefore that s. 23(3)(a) is no longer an issue in this inquiry. Only the information withheld under s. 23(4)(c) remains in dispute.

## ISSUE AND BURDEN OF PROOF

[4] The issue I must decide in this inquiry is whether s. 23(4)(c) requires the School to refuse access to the information in dispute.

[5] Section 51(1) places the burden on the School to prove that the applicant has no right to access the information in dispute.

### *Additional matters in the applicants' submission*

[6] The applicants' submission addresses issues not set out in the OIPC investigator's Fact Report or the Notice of Inquiry. For instance, the applicants' submission includes various allegations of wrongdoing against the School, such as misleading communications and procedural unfairness. Such matters are not within my jurisdiction.

[7] The applicants' submission also raises a potential privacy breach. This inquiry is about an access request. A privacy breach is addressed through the OIPC complaint process. No privacy complaint is listed in the OIPC Fact Report or Notice of Inquiry, so it is therefore outside the scope of this inquiry.

## DISCUSSION

### Background

[8] The School is an independent school, and the parties do not dispute that it is subject to PIPA. The Student was enrolled as a student at the School when there was incident at an off campus event attended by many students (Incident). The Incident was subsequently reported and investigated under the School's Student Code of Conduct (Investigation).

[9] Shortly after the Incident and Investigation, a lawyer representing the Student and his parents submitted an access request under PIPA for the Student's personal information for the preceding two years.

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<sup>2</sup> OIPC Fact Report at para 5.

## Information in dispute

[10] The School identified 853 pages of records as responsive to the access request.<sup>3</sup> The information that remains in dispute in this inquiry appears on 39 pages, which are notes of the Investigation (Notes), draft email messages (Drafts), and emails.

## Personal information

[11] Individuals are only allowed access to their own personal information under PIPA.<sup>4</sup> This access is subject to the exceptions set out in s. 23. Here the exception at issue is in s. 23(4)(c). Before turning to that exception, I must first decide whether the information in dispute is the applicant's personal information.

[12] Section 1 of PIPA defines "personal information" and related terms as follows:

"personal information" means information about an identifiable individual and includes employee personal information but does not include

(a) contact information, or

(b) work product information;

"contact information" means 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;

"work product information" means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.

[13] Information is about an identifiable individual if it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.

[14] Most of the information in dispute appears in the Notes.<sup>5</sup> The information that was withheld from those pages identifies by name individuals other than the Student. I find that this information is solely about those other individuals, so none of it is the Student's personal information. The applicants have no right to

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<sup>3</sup> Affidavit of the School's Head of School at para 20.

<sup>4</sup> Sections 23(1)(a) and 27.

<sup>5</sup> Records, pp. 1-26.

access to this information because it is not the Student's personal information. I will therefore consider those pages no further.

[15] The School withheld the Drafts<sup>6</sup> in their entirety. These Drafts refer generally to students at the School but do not name any individual students. I considered whether the Student could be identified from the content of the Drafts if it was combined with other available sources of information. I conclude that the Drafts were sufficiently anonymized such that no individual, including the Student, could reasonably be identified from their contents. I find these Drafts contain no personal information. For that reason, the applicants have no right of access to these Drafts under PIPA.

[16] The School also withheld information from emails.<sup>7</sup> I find the applicants have no right of access to some of this information because it is not the Student's personal information. This information is:

- comments which do not reasonably identify the Student, either alone or in combination with other sources;
- names of other individuals<sup>8</sup>; and
- information that meets the definition of "contact information" because its purpose is obviously to enable an individual to be contacted at their place of work.

[17] However, I find the School withheld a small amount of information from the emails that is the Student's personal information. The Student is identifiable from this information because it is his name, details about his actions, and other individuals' thoughts and feelings about him. Further, this information is not the Student's contact information or work product information because it does not relate to the Student's place of business or employment.

[18] Access to personal information is subject to the exceptions in s. 23. The School applied s. 23(4)(c) to this information, so I consider its application to the information I have found is the Student's personal information.

### **Personal information about another individual, s. 23(4)(c)**

[19] Section 23(4)(c) says that an organization must refuse to disclose information if the disclosure would reveal personal information about another individual. The phrase "another individual" refers to an individual other than the applicant.<sup>9</sup>

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<sup>6</sup> Records, pp. 27-28.

<sup>7</sup> Records, pp. 29-39.

<sup>8</sup> Where the names were withheld, the surrounding information about the Student was released.

<sup>9</sup> Order P14-03, 2014 BCIPC 49 at para 13 and Order P11-01, 2011 BCIPC 9 at para 17.

*Parties' submissions, s. 23(4)(c)*

[20] The School says that it was required to withhold the information because it is the personal information of other individuals. The School relies on previous decisions of the OIPC to say personal information can include thoughts, opinions, responses to questions, references, and evaluations. The School says such information is the personal information of the person who makes these statements and simultaneously the personal information of the person about whom the opinion or evaluation is offered, which in this case is the Student.<sup>10</sup>

[21] The applicants say that previous orders of the OIPC establish that information shared between two or more people about a third person, is the personal information of the third person and not the personal information of the writer(s).<sup>11</sup> The applicants say that any opinions expressed in the course of employment about the applicants are the personal information of the applicants and must be disclosed under PIPA.<sup>12</sup> The applicants further suggest that school personnel are deemed, by virtue of their employment, to have consented to the disclosure of any of their personal views.<sup>13</sup>

[22] The applicants argue that the analysis under s. 23(4)(c) is not a simple off/on or binary test where if the opinions, thoughts or views of School personnel constitute the personnel's "personal information" under PIPA, they can be withheld. The applicants reject such an interpretation and application of PIPA as an "impoverished view". The applicants say instead that s. 23(4)(c) clearly requires a reasonableness analysis.<sup>14</sup>

[23] The School disputes the applicants' characterization of previous OIPC orders and says it is contrary to settled law.<sup>15</sup> The School replies that an applicant has no right of access under PIPA to another individual's personal information, including where that information is inextricably intertwined with that of an applicant.<sup>16</sup>

[24] The School also rejects the applicants' assertion that a reasonableness test should apply to the analysis under s. 23(4)(c). The School says there is no basis in law to such an argument. The School argues the authorities on the

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<sup>10</sup> School's initial submission at para 37 citing Order P18-01, 2018 BCIPC 6 at paras 14-15 and 19.

<sup>11</sup> Applicants' submission at para 22 citing Order P24-01, 2024 BCIPC 3 and Order P22-06, 2022 BCIPC 54.

<sup>12</sup> Applicants' submission at para 23.

<sup>13</sup> Applicants' submission at para 27.

<sup>14</sup> Applicants' submission at para 32.

<sup>15</sup> School's reply submission at para 8.

<sup>16</sup> School's reply submission at para 9.

application of s. 23(4)(c) are clear and well-established and to stray from them would constitute an error of law.<sup>17</sup>

*Analysis, s. 23(4)(c)*

[25] Section 23(4)(c) only applies if the information in dispute is the personal information of another individual. The test under s. 23(4)(c) is simply whether disclosure would reveal the personal information of another individual.<sup>18</sup> There is no reasonableness aspect, as suggested by the applicants, to the analysis under s. 23(4)(c).

[26] The first step in the s. 23(4)(c) analysis is to determine whether any of the remaining information in dispute is about an identifiable individual other than the applicant. If it is, then I must decide whether that information is personal information about that individual, or whether it is excluded because it is contact information or work product information.

[27] The remaining information in dispute is about identifiable individuals other than the applicant. This information is about their individual actions and opinions in relation to the Student and off campus events. The individuals are identified by name. This information is inextricably intertwined with the Student's personal information. I find that this information is simultaneously about those individuals and about the Student.<sup>19</sup>

[28] The applicants' assertion that information shared between other individuals about the Student, is strictly the personal information of the Student and not the personal information of the other individuals, is simply wrong. I disagree with the applicants that the orders they cited stand for this proposition. I agree with the School that the applicants' assertion on this point is contrary to settled law.

[29] I find that none of the information that is about both the Student and other individuals is the other individuals' "contact information", and most of it is clearly not their "work product information". For that reason, disclosing that information would reveal personal information about those individuals, so s. 23(4)(c) applies.

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<sup>17</sup> School's reply submission at para 11.

<sup>18</sup> Order P18-01, 2018 BCIPC 06 at para 19 where then Senior Adjudicator Barker pointed out that unlike s. 22 of the *Freedom of Information and Protection of Privacy Act* (FIPPA), s. 23(4)(c) of PIPA does not require that disclosure of the personal information would unreasonably invade another individual's personal privacy. The same point is made in Order P11-01, 2011 BCIPC 9 (CanLII) at para 16, and Order P06-02, 2006 CanLII 32980 (BC IPC), para 53.

<sup>19</sup> Order P18-01, 2018 BCIPC 06 at para 19.

[30] However, there are two sentences that I find are the “work product information” of two individuals.<sup>20</sup> I can conclude that these individuals prepared and emailed this information as part of their employment responsibilities and activities. Given that this information is the two individuals’ work product information, it is not their personal information and s. 23(4)(c) does not apply.

[31] In summary, s. 23(4)(c) applies to all of the information in dispute that is the Student’s personal information with the exception of the two sentences that are work product information.

### **Severance, s. 23(5)**

[32] Section 23(5) requires the School to provide the applicants with access to the Student’s personal information if it can remove the information to which s. 23(4)(c) applies. It reads:

23(5) If an organization is able to remove the information referred to in subsection (3)(a), (b) or (c) or (4) from a document that contains personal information about the individual who requested it, the organization must provide the individual with access to the personal information after the information referred to in subsection (3)(a), (b) or (c) or (4) is removed.

[33] The School says that to the extent that the severed information and personal information of third parties relates to the applicants, it is inextricably linked with the personal information of said third parties and severing is impossible.<sup>21</sup> The applicants do not comment on s. 23(5).

[34] I considered whether anything further can be disclosed without revealing the information that the School is required to withhold under s. 23(4)(c). In my view, the remaining personal information of the Student is so intertwined with the information that the School must withhold under s. 23(4)(c) that it is not possible to provide the applicants with that personal information without revealing the third party personal information.

### **ORDER**

[35] For the reasons given above, I make the following order under s. 52:

1. I confirm the School’s decision to refuse the applicants access to the information that I found does not qualify as the applicant’s personal information under PIPA.

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<sup>20</sup> First severed sentence of the severed paragraph on p. 29, and the first severed sentence of the severed paragraph on p. 31 of the records.

<sup>21</sup> School’s initial submission at para 51.

2. I require the School to refuse the applicants access to the personal information to which I found s. 23(4)(c) applies.
3. I require the School to give the applicants access to the information in the two sentences that I have found is work product information so s. 23(4)(c) did not apply. This information is highlighted in yellow in a copy of pages 29 and 31 of the records which are provided to the School with this order.
4. I require the School copy the OIPC registrar of inquiries on its cover letter and the records it sends to the applicant in compliance with item 3 above.

[36] Pursuant to s. 53(1) of PIPA, the School is required to comply with this order by **May 9, 2025**.

March 26, 2025

**ORIGINAL SIGNED BY**

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Carol Pakkala, Adjudicator

OIPC File No.: P23-93457