



Order P26-06

FAMILY DYNAMIX ASSOCIATION

Lisa Siew
Adjudicator

April 30, 2026

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Summary: Under the *Personal Information Protection Act* (PIPA), a parent (the Applicant) requested Family Dynamix Association (the Organization) provide them with access to their child’s personal information located in counselling records. The Organization refused to provide the Applicant with the requested information. At an inquiry into the matter, the adjudicator found the Applicant was not authorized to exercise their child’s access rights under s. 23(1)(a) of PIPA and confirmed the Organization’s decision to refuse the Applicant access to the requested information.

Statutes and sections considered in this order: *Personal Information Protection Act*, SBC 2003 c 63, ss. 23(1)(a), 48(b), 52(5)(c). *Personal Information Protection Act Regulations*, BC Reg 473/2003, s. 2(2)(a). *Interpretation Act*, RSBC 1996 c 238, ss. 2 and 29 (definition of “minor”). *Age of Majority Act*, RSBC 1996, c 7, ss. 1(1), 1(2).

INTRODUCTION

[1] Under the *Personal Information Protection Act* (PIPA), a parent (the Applicant) requested Family Dynamix Association (the Organization) provide them with access to their child’s (the Child’s) personal information located in counselling records under the control of the Organization.

[2] The Organization refused to provide the Applicant with the requested information but did not cite any PIPA provisions as a basis to refuse access. The Applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the Organization’s decision.

[3] The OIPC’s review and mediation process did not resolve the issues between the parties and an OIPC investigator decided to forward the matter to the OIPC’s inquiry phase for adjudication.

[4] After the matter was forwarded for adjudication, the OIPC invited the Child's other parent (the Parent) to participate in the inquiry in accordance with s. 48(b) of PIPA (notifying an appropriate person of the review).¹ The Parent provided written submissions.

[5] Also, during the inquiry, I wrote to the parties to inform them that I had identified an issue that needed to be added to the inquiry, specifically who can act for a minor under s. 23(1)(a) of PIPA. I determined this issue was an essential part of the analysis that I needed to conduct to decide the dispute between the parties and offered the parties an opportunity to make submissions about this issue. None of the parties provided submissions about this issue.

ISSUES AND BURDEN OF PROOF

[6] In this order, I will determine whether the Organization is required to withhold the requested information under PIPA.² To make this determination, I find the following questions are relevant:

1. Is the Applicant authorized to exercise the Child's access rights under s. 23(1)(a) of PIPA?
2. If the Applicant is authorized to exercise the Child's access rights under PIPA, then does ss. 23(4)(a) or 23(4)(c) of PIPA authorize or require the Organization to refuse access to the information at issue?

[7] With respect to issue 1, PIPA does not identify which party has the burden of proof. In the absence of a statutory burden of proof, previous OIPC adjudicators have relied on past precedents or determined which party should be assigned the burden of proof.³ In terms of past precedent, I note that a previous OIPC order that considered a similar issue determined that it is up to each party to provide evidence and argument to support their positions about that issue.⁴ I adopt that approach here.

[8] With respect to issue 2, s. 51(a) of PIPA places the burden on the Organization to prove ss. 23(4)(a) and 23(4)(c) of PIPA apply.

¹ Under s. 48(b) of PIPA, the OIPC has the authority to provide a copy of the applicant's request for review to any person the Commissioner or their delegate considers appropriate. Under s. 50(3), that person must be given an opportunity to make representations to the Commissioner or their delegate during the inquiry.

² I have stated this issue as it is written in the OIPC's notice of inquiry dated November 6, 2025. The notice of inquiry did not identify any PIPA provisions that may be relevant to the dispute between the parties. Therefore, I have determined the necessary PIPA provisions and analysis based on my review of the parties' submissions and the materials available to me, which includes the Applicant's access request, the Organization's response and the correspondence between the parties about that access request.

³ Order P24-11, 2024 BCIPC 102 (CanLII) at para. 10.

⁴ Order P21-01, 2021 BCIPC 6 (CanLII) at para. 7.

DISCUSSION

Is the Applicant authorized to exercise the Child's access rights under s. 23(1)(a) of PIPA?

[9] Section 23(1)(a) of PIPA gives individuals the right to access their *own* personal information under the control of organizations, subject to certain exceptions set out in ss. 23(2) to 23(4) of PIPA. In the present case, the Applicant is not requesting the Organization provide him with access to their own personal information but is seeking access to the Child's information. The Applicant has also said they are the "legal guardian" of the Child⁵ and that the Child is 10 years of age.⁶ As I will explain below, PIPA has provisions that address these circumstances and that determine whether the Applicant can request access to the Child's information under PIPA.

[10] Section 2(2)(a) of the Regulations specifies who can act for a minor in relation to s. 23 of PIPA. It reads:

2(2) Subject to subsection (3),⁷ the guardian of a minor may
(a) exercise the rights of the minor under section 23 of the Act, if the minor is incapable of exercising the minor's rights under that section,

[11] Therefore, pursuant to s. 2(2)(a) of the Regulations, the Applicant is only able to exercise the Child's access rights under s. 23(1)(a) of PIPA if the following three conditions are met:

1. the Child is a minor;
2. the Child is incapable of exercising their own access rights; and
3. the Applicant is the Child's guardian.⁸

[12] All three elements must be established for the Applicant to exercise the Child's access rights and request the Child's personal information under s. 23(1)(a) of PIPA. I will consider those requirements below.

1. Is the Child a minor?

[13] Section 2(2)(a) of the Regulations requires the Child to be a "minor". Neither PIPA nor its Regulation define who is considered a "minor" under PIPA.

⁵ Applicant's request for review to the OIPC dated August 28, 2024.

⁶ Applicant's inquiry submission dated January 4, 2026.

⁷ Subsection (3) is not applicable here. It applies if an individual has a "representative" as that term is defined in s. 2(1) of the Regulations.

⁸ Order P21-01, 2021 BCIPC 6 (CanLII) at paras. 18-19.

Instead, I note the *Interpretation Act* defines a “minor” as “a person under the age of majority.”⁹ I conclude this definition applies to PIPA.¹⁰

[14] The *Interpretation Act* does not define when a person reaches the “age of majority”. However, the *Age of Majority Act* states that a person reaches the age of majority on becoming 19 years old.¹¹ I am also satisfied that this provision applies to PIPA.¹²

[15] Applying those definitions, I conclude that a “minor” under PIPA is a person who is under 19 years of age. The Applicant says the Child is currently 10 years old and provided a copy of a court order that confirms the Child’s age.¹³ Therefore, I find the Child qualifies as a “minor” under s. 2(2)(a) of the Regulations because they are currently under 19 years of age.

2. Is the Child incapable of exercising their own access rights under PIPA?

[16] Section 2(2)(a) of the Regulations requires the minor to be incapable of exercising their own access rights. Although given the opportunity, none of the parties provided me with submissions or evidence about the Child’s capacity to exercise their own access rights under PIPA. However, I note the following information from the parties’ available submissions and materials:

- The Parent says the Child has expressly stated they do not want their counselling information shared.¹⁴
- The Applicant provided a copy of a court order that indicates the Applicant and the Parent will equally share decision-making responsibility with respect to the Child, including “Requesting and receiving from third parties, including relating to the health, education or other information respecting the [Child].”¹⁵

⁹ RSBC 1996, c 238 at s. 29.

¹⁰ Section 2 of the *Interpretation Act* provides that, “Every provision of this Act applies to every enactment...unless a contrary intention appears in this Act or in the enactment.” There is no contrary intention in PIPA or in the *Interpretation Act*; therefore, I find the definition of a “minor” under s. 29 of the *Interpretation Act* applies to PIPA.

¹¹ RSBC 1996, c 7 at s. 1(1).

¹² Section 1(2) of the *Age of Majority Act* provides, in part, that s. 1(1) applies for the purposes of “any rule of law” and “in the absence of a definition or of an indication of a contrary intention, for the interpretation of [the term] “**minor**...in an enactment...” As noted, PIPA does not define the term “minor”, and I find there is no indication of a contrary intention in PIPA that the definition of a “minor” in the *Age of Majority Act* should not apply.

¹³ Applicant’s inquiry submission dated January 4, 2026. Court order included with the Applicant’s submission that shows the Child’s date of birth.

¹⁴ Parent’s submissions dated December 4, 2025 and January 6, 2026 at p. 2 of each pdf.

¹⁵ Court order at para. 3(g), copy of court order included in Applicant’s inquiry submission dated January 4, 2026.

[17] In Order P21-01, Adjudicator Antinuk considered s. 2(2)(a) of the Regulations in circumstances somewhat like the present case, that is, a parent's access request for their child's counselling records. Based on a review of the counselling records at issue in that inquiry and other materials, Adjudicator Antinuk concluded the minor in that case had the capacity to exercise their own access rights under PIPA because: (1) there was evidence of the minor's capacity to understand and communicate their own feelings, needs and goals, and to make important decisions about their life; (2) the minor explicitly refused to consent to the release of the disputed records to their parent who was the access applicant; and (3) the minor was a teenager and not a baby or a very young child.¹⁶

[18] Adjudicator Antinuk also said the following about the effect of a court order for the capability analysis under s. 2(2)(a) of the Regulations:

The fact that a court order gives the applicant the ability to request and obtain information about the patient from third parties is irrelevant when it comes to the question of capability. Under PIPA, a guardian may only exercise a minor's right of access *if that minor is incapable* of doing it for themselves. Nothing in the evidence shows that the patient is incapable of requesting her own personal information from the psychologist...¹⁷

[19] I find some of those considerations are applicable in this case. Although the Child is a young child of 10 years of age, the Parent says the Child has expressly stated they do not want their counselling information shared. In the absence of evidence to prove otherwise, I find the Child's explicit refusal to consent to the release of their counselling information indicates an understanding of the nature and consequences of their rights under PIPA and supports a finding of capability.¹⁸ I was not provided with any evidence or arguments that demonstrate the Child does not have this understanding and capability.

[20] Moreover, I agree with Order P21-01 that the fact that a court order gives the Applicant the ability to request and obtain information about the Child from third parties is irrelevant when it comes to the question of capability under s. 2(2)(a) of the Regulations. Therefore, for all those reasons, I find there is insufficient evidence before for me to conclude the Child is not capable of exercising their own access rights under PIPA. Accordingly, I find the second part of the s. 2(2)(a) test has not been met.

[21] I do not need to decide whether the Applicant is the Child's guardian because I found above that one of the requirements under s. 2(2)(a) of the Regulations has not been met.¹⁹ As previously noted, all three elements must be

¹⁶ Order P21-01, 2021 BCIPC 6 (CanLII) at paras. 26-28.

¹⁷ Order P21-01, 2021 BCIPC 6 (CanLII) at para. 29, emphasis in original.

¹⁸ For a similar finding, see Order P21-01, 2021 BCIPC 6 (CanLII) at para. 28.

¹⁹ For a similar conclusion, see Order P21-01, 2021 BCIPC 6 (CanLII) at para. 30.

established for the Applicant to exercise the Child's access rights and request the Child's personal information under s. 23(1)(a) of PIPA.

[22] Given my conclusion about the first issue in this inquiry, I also do not need to decide whether ss. 23(4)(a) or 23(4)(c) of PIPA authorize or require the Organization to refuse access to the information at issue.

CONCLUSION

[23] To conclude, for the reasons discussed above, I am not satisfied the Applicant is authorized under s. 2(2)(a) of the Regulations to exercise the Child's access rights under s. 23(1)(a) of PIPA. Therefore, I confirm the Organization's decision to refuse to provide the Applicant with access to the Child's information in the relevant documents.

[24] The OIPC's registrar of inquiries will provide the Parent with a copy of this order because they were an appropriate person given notice under s. 48(b).²⁰

April 30, 2026

ORIGINAL SIGNED BY

Lisa Siew, Adjudicator

OIPC File No.: P24-98470

²⁰ Subsections 52(5)(a), (b), and (c) collectively require the OIPC to give a copy of this order to the individual who made the request, the organization concerned and any person given notice under s. 48 of PIPA.