



Order F26-34

VANCOUVER BOARD OF EDUCATION - SCHOOL DISTRICT 39

Allison J. Shamas
Adjudicator

April 30, 2026

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Summary: An individual (applicant) requested information from the Vancouver School Board, Board of Education of School District 39 (VSB). In response, VSB advised the applicant that it did not have responsive records in its custody or under its control and that it was not required to create responsive records under s. 6(2) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The adjudicator determined that s. 6(2) of FIPPA did not require VSB to create a record containing the information requested by the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165 s. 6(2)(a).

INTRODUCTION

[1] An individual (applicant) asked the Vancouver Board of Education - School District 39 (VSB) for information about the ages of job applicants who applied for, were granted interviews, or were awarded positions in job competitions for several job classifications between 2010 and 2022.¹

[2] VSB disclosed records containing some of the information and explained that other information did not exist.²

[3] The applicant narrowed and resubmitted the request.³ The part of that request that is before me is the applicant's request for information about the ages of internal VSB candidates who applied for, were granted interviews, or were

¹ Fact report para 1. A fact report is a statement of facts prepared by an OIPC investigator and agreed to by the parties.

² Fact report para 2.

³ Parts of the narrowed request were resolved or assigned to other OIPC files. These parts are not before me. Fact report paras 3, 4, and 5.

awarded vice principal positions between 2015 and 2022.⁴ The full text is as follows:

From each year during the period 2015-2022, how many internal applicants from the following age brackets applied for vice principal positions at the VSB:

- 35-44
- 45-54
- 55+

From each year during the period 2015-2022, how many internal applicants from the following age brackets were granted interviews for vice principal positions at the VSB:

- 35-44
- 45-54
- 55+

From each year during the period 2015-2022, how many internal applicants from the following age brackets were successful in their applications for vice principal positions at the VSB:

- 35-44
- 45-54
- 55+

(hereinafter “the Request”).⁵

[4] In response to the Request, VSB advised the applicant that records containing the requested information did not exist, and that it was not required to create a record for the applicant because the requirements of s. 6(2) which establish a public body’s obligation to create a record for an applicant were not met.

[5] The applicant complained to the Office of the Information and Privacy Commissioner (OIPC) about VSB’s decision not to create a record.

[6] Mediation by the OIPC did not resolve the issue and the matter proceeded to this inquiry.

PRELIMINARY ISSUES

[7] The parties raise two preliminary issues relating to the scope of the issue in dispute.

⁴ Fact report paras 3 and 5.

⁵ The Request is defined in para 3 of the fact report.

New Issue – s. 6(1)

[8] Some of the applicant's submissions concern whether VSB performed an adequate search for records under s. 6(1) of FIPPA. As s. 6(1) is not listed in the notice of inquiry, it is a new issue. The notice of inquiry that the OIPC sent to the parties expressly states, "parties may not add new exceptions or issues without the OIPC's prior consent." The OIPC's *Instructions for Written Inquiries* contains a similar warning.⁶ In addition, past OIPC orders have consistently held that new issues raised in a party's inquiry submission cannot be added to an inquiry without the OIPC's prior authorization.⁷

[9] The applicant does not explain why they did not seek the OIPC's authorization to raise the s. 6(1) issue before filing their inquiry submissions. Nor does the applicant identify any exceptional circumstances which would warrant a departure from the OIPC's general practice in this case. Furthermore, considering the history of the Request,⁸ I find that adding the s. 6(1) issue at this stage would undermine the OIPC's investigation process through which the parties are expected to resolve disputes and refine the issues to be decided at inquiry. In the circumstances, I decline to add s. 6(1) as an issue, and I will not consider it further in this inquiry.

Scope of the Request

[10] In their response submission, the applicant offers to narrow the scope of the Request if I determine that certain parts of the s. 6(2) test are not met with respect to certain records. VSB objects. It says the issue for adjudication is set out in the fact report,⁹ and the applicant should not be permitted to narrow the scope of the Request during the inquiry to better suit the evidence.

[11] I agree with VSB. The issue that has reached the inquiry stage for me to decide, is whether s. 6(2) requires VSB to create a record in response to the Request which is set out in the fact report.¹⁰ To permit the applicant to change the scope of the Request, and therefore the scope of the dispute at this stage, after VSB submitted its evidence and argument would be unfair to VSB and would undermine the OIPC's investigation process. I decline to consider the

⁶ <https://www.oipc.bc.ca/documents/guidance-documents/1658> at p. 3.

⁷ For examples where the OIPC has refused to permit a party to add a s. 6(1) issue without prior permission, see Order F21-23, 2021 BCIPC 28 (CanLII) at para 7, Order F18-11, 2018 BCIPC 14 (CanLII) at para 3, Order F23-31, 2023 BCIPC 37 (CanLII) at para 5, Order F23-101, 2023 BCIPC 117 (CanLII) at para 9; and Order F24-10, 2024 BCIPC 14 (CanLII) at paras 4-10.

⁸ That history is set out above. A more detailed history is set out in the fact report for this inquiry.

⁹ A fact report is a statement of facts prepared by an OIPC investigator and agreed to by the parties.

¹⁰ Fact report paras 3 and 8.

applicant's proposed modifications to the Request in assessing whether VSB is required to create a record under s. 6(2).¹¹

ISSUE IN DISPUTE

[12] The issue I must decide is whether VSB is required to create a record in response to the Request pursuant to s. 6(2) of FIPPA.

[13] FIPPA does not establish which party has the burden to establish that a public body is not required to create a record under s. 6(2). However, past orders establish that the onus is on the public body to prove that they performed their duties under s. 6(2).¹² For the reasons set out in those decisions, I take the same approach here.

DUTY TO CREATE A RECORD – S. 6(2)

[14] Section 6 of FIPPA deals with a public body's duty to assist applicants. Section 6(2) sets out the circumstances in which a public body must create a record for an applicant in response to an access request. It provides:

(2) Moreover, the head of a public body must create for an applicant a record to which section 4 gives a right of access if

(a) the record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise, and

(b) creating the record would not unreasonably interfere with the operations of the public body.

[15] In this case, both ss. 6(2)(a) and (b) are in dispute. The word "and" between ss. 6(2)(a) and (b) means that a public body has a duty to create a record only if both conditions are met.¹³ Therefore, the issue before me is whether the requirements of ss. 6(2)(a) and (b) are met such that VSB is required to create a record containing the requested information (the Requested Record) for the applicant.

¹¹ For a similar approach, see Order F25-98, 2025 BCIPC 114 (CanLII) at paras 8-10. Order F08-02, 2008 BC IPC 1647 (CanLII) at paras 28.

¹² Order No. 105-96, available at <https://www.oipc.bc.ca/rulings/orders/?year=1996&type=FIPPA>. See also Order F20-13, 2020 BCIPC 15 (CanLII) at para 13; Order F23-55, 2023 BCIPC 64 (CanLII) at para 6; Order F24-27, 2024 BCIPC 34 (CanLII) at para 6; and Order F25-98, 2025 BCIPC 114 (CanLII) at para 22.

¹³ Order F24-27, 2024 BCIPC 34 (CanLII) at para 10.

Can the record be created from a machine readable record using VSB's normal computer hardware and software and technical expertise? – s. 6(2)(a)

[16] I begin with s. 6(2)(a) which asks whether the Requested Record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise under s. 6(2)(a).

Parties' positions about s. 6(2)(a)

[17] VSB submits that the requirements of s. 6(2)(a) are not met because the Requested Record cannot be generated from records that are entirely machine-readable, and because generating the Requested Record would require considerable manual processing beyond what is required by s. 6(2)(a). It accepts that the records containing the information required to create the Requested Record (the Source Records) are under its control.

[18] VSB's Manager of Privacy and District Records (Records Manager) provides detailed evidence about how and where the information required to create the Requested Record is stored. The Records Manager's evidence in this regard is summarized below.

[19] VSB does not collect or track age information of job applicants. Instead, to create the Requested Record, VSB would be required to cross reference job application information with date of birth information it maintains about its employees.

[20] VSB retains personal information about its current and past employees in an information management system called "PeopleSoft". That information includes dates of birth and limited information about employee transfers. However, PeopleSoft does not contain information about recruitment, applications, or job competitions more broadly.

[21] During the 2015-2022 period, VSB accepted most job applications through a job board operated by Make-a-Future BC (the MAF System). The MAF System is an online portal, administered by the British Columbia Public School Employers' Association (BCPSEA), through which candidates can submit job applications.

[22] The MAF System does not collect information about job applicants' ages. Furthermore, during the 2015-2022 period, the MAF System did not collect information about whether an applicant was internal or external. However, information about whether a candidate is internal or external would ordinarily be available from the candidates' application materials, either because it is expressly stated or from the candidates' employment history.

[23] Furthermore, a job applicant's profile and application materials are not retained or accessible through the MAF System after a period of 3 years of inactivity. So, the MAF System is not a complete source of all job applications submitted through it during the relevant period identified in the Request.

[24] During the 2015-2022 period, VSB also accepted applications by email or other means. These applications are not stored in the MAF system. For this reason, as well, the MAF System is not a complete source of job application information.

[25] For each job competition during the relevant period, VSB compiled paper job competition binders (Job Binders) that included all the applications received from all sources (the MAF System, email, and any other sources). These Job Binders are the only complete record of all job applications received for each position during the relevant period. They also contain a list of which candidates were interviewed, information that reveals whether a candidate is internal or external, and whether each candidate was interviewed and/or offered a position. As with the other sources of job applications, the Job Binders do not contain information about candidate's ages.

[26] The Records Manager also deposes that because of how the information required to create the Requested Record is stored, the process of creating the Requested Record would require considerable manual effort from VSB. The Records Manager's evidence in this regard is below.

[27] To create the Requested Record, VSB would need to access both PeopleSoft and the job application materials (the latter being the Job Binders or a combination of the MAF System, email or other sources) because the age and job application information is located in different sources.

[28] The PeopleSoft and MAF System are not integrated and do not use common identifiers. As a result, there is no means to automatically generate the Requested Record from these sources. Moreover, even if this were possible, the MAF System is incomplete and VSB would still need to obtain information from the Job Binders.

[29] The MAF System's functionalities are limited. While it can export all applications for a particular position, it cannot generate a list of candidates who applied for a particular job category during a specified period. It does not have a function to conduct a key word search of job application documents. It cannot convert materials into a machine readable form (such as by conducting an Optical Character Recognition (OCR) scan of the documents). VSB has limited ability to manipulate the MAF System since it is operated by a third party (BCPSEA).

[30] According to the Records Manager, to generate the requested records, VSB would be required to undertake the following tasks:

First, the VSB would need to obtain and review the Job Competition Binders from 2015 to 2022. ... A list for each Posting can be obtained from the MAF System, but it would need to be manually updated by reference to the Job Competition Binders to reflect all applicants for the Posting.

Next, the VSB would need to review each application to determine whether each applicant was internal or external and whether they were granted an interview. A list would need to be prepared. From that list, the VSB would next need to look up each applicant's name and birthdate in PeopleSoft, calculate their age at the time of the competition and record that information.

Finally, the VSB would next need to use the above data to generate an annual list and organize the data into a document using the age ranges specified by the Applicant.¹⁴

[31] Finally, the Records manager says that VSB posted 33 vice principal positions during the 2015 – 2022 period, each of which had an average of 30 job applicants.¹⁵

[32] The applicant submits that VSB is required to scan the Job Binders to render them “machine readable” because doing so would require minimal manual effort on its part. Thus, according to the applicant, there is no need for VSB to review job application information from the MAF System or any other sources as it can rely on machine readable copies of the Job Binders to create the Requested Record.

[33] The applicant submits that VSB inflates the effort and complexity of creating the Requested Record. In this regard, the applicant submits that once the Job Binders are scanned, all that would be required of VSB would be to cross reference the names of job applicants with information from PeopleSoft showing whether the candidate was an internal candidate and their date of birth.

[34] The applicant also submits that because of the relationship between VSB and BCPSEA, I should presume that VSB exercises significant control over the information in the MAF System.

[35] Finally, the applicant asserts that VSB posted 18 vice principal positions during the 2015 – 2022 period covered by the request.

¹⁴ Initial Submission of VSB, Affidavit of Records Manager at para 9.

¹⁵ Initial Submission of VSB, Affidavit of Records Manager at para 29.

[36] In reply, VSB submits that converting the Job Binders into a digital format such as by scanning them would not satisfy the requirements of s. 6(2)(a) because doing so would not eliminate the obligation on VSB to manually compile the information required to create the Requested Record.

[37] VSB also provides evidence from a retired employee (the Retiree) whom it assigned to perform the work required to create the Requested Record on a trial basis.¹⁶ The Retiree's evidence adds the following:

- The Job Binders for some competitions contain a list of internal candidates. This reduced the work required to identify internal candidates
- Employee name changes or instances where names were listed differently in PeopleSoft than in job applications created challenges. This increased the work required to identify internal candidates.
- In some cases, candidates who were ultimately awarded positions were not hired until well after the job posting because they were instead placed in a pool of candidates (VP Pool) for future positions. As a result, there are gaps in information about the dates candidates from the VP Pool were placed in VP positions. This increased the work to understand the information and will lead to inaccuracies in the records.

[38] Finally, explaining that the Record's Manager miscounted because of a misnamed document, VSB states that there were 23 (not 33) postings for VP positions during the relevant period, each generating approximately 30 candidates, for a total of 690 potential candidates.¹⁷

Analysis of s. 6(2)(a)

[39] For the reasons that follow, I find that the requirements of s. 6(2)(a) are not satisfied, and therefore that, VSB is not required to create the Requested Record for the applicant.

[40] Past orders make clear that the obligation to create a record in s. 6(2)(a) arises only in the circumstances explicitly set out in that section¹⁸ - that is, where the requested record can be created from a machine readable record; the machine readable record is in the custody or under the control of the public body; and the record can be created using the public body's normal computer hardware

¹⁶ On April 7, 2026 I wrote to the applicant's legal counsel to offer the applicant the opportunity to address this evidence in a sur-reply. The applicant did not provide further submissions. The OIPC's registrar of inquiries confirmed for me that she sent the letter to the email the applicant's legal counsel provided to the OIPC for contact purposes.

¹⁷ Reply Submission of VSB paras 23-25.

¹⁸ Order F24-63, 2024 BCIPC 73 (CanLII) at para 29, citing Order 01-31, 2001 CanLII 21585 (BC IPC) at para. 11 and Order 04-24, 2004 CanLII 45534 (BC IPC) at para. 11.

and software and technical expertise.¹⁹ I will address each of these requirements below.

Machine readable records

[41] In terms of how to define a “machine readable record,” past orders have considered whether the record “can be “read”, or “made intelligible” through the devices themselves,”²⁰ or “digitally catalogued, organized, or manipulated in a straightforward or automated manner.”²¹

[42] Dictionary definitions of “machine readable” include “directly usable by a computer”;²² “(of information or printed text) able to be understood and used by a computer”;²³ and “of or relating to data encoded on an appropriate medium and in a form suitable for processing by computer”, or “(of data) in a form in which it can be fed into a computer.”²⁴

[43] Additionally, past orders provide records which are kept in paper format or otherwise contain information that cannot be readily digitized are not usually considered “machine readable” for purposes of s. 6(2)(a).²⁵

[44] Considering the above, I find that machine readable records are records that are in a format that can be processed by a computer or that can readily be rendered into such a format.

[45] The relevant facts as they relate to the records containing the information required to create the Requested Record (the Source Records) are not in dispute. I accept that the relevant information required to create the Requested Record is located in PeopleSoft profiles and in the job applications which are found in the paper-based Job Binders, the electronic MAF System, and in email and other sources. I also accept that the only complete source of the job application information is the paper-based Job Binders.

[46] I find that the PeopleSoft profiles are digitized in that they are maintained in a computer program. I also find that s. 6(2)(a) requires VSB to scan the Job Binders and save them in digital form. I arrive at this finding because VSB does not assert that there is any reason why the Job Binders cannot not be easily scanned, and there is nothing in either’s party’s evidence to suggest scanning the Job Binders would pose any difficulty for VSB.

¹⁹ See for example

²⁰ Order F21-07, 2021 BCIPC 8 (CanLII) at para 36.

²¹ Order F24-63, 2024 BCIPC 73 (CanLII) at para 34.

²² <https://www.merriam-webster.com/dictionary/machine-readable>, accessed April 27, 2026.

²³ <https://dictionary.cambridge.org/dictionary/english/machine-readable>, accessed April 27, 2026.

²⁴ <https://www.dictionary.com/browse/machine-readable>, accessed April 27, 2026.

²⁵ Order 01-31, 2001 CanLII 21585 (BC IPC) at para. 11. See also Order 04-24, 2004 CanLII 45534 (BC IPC) at paras. 7-11.

[47] I find that the digitized PeopleSoft profiles and Job Binders are or can be readily rendered into a format that can be processed by a computer. I accept that the first requirement is satisfied.

Custody of the public body

[48] There is no dispute that the Source Records – that is the PeopleSoft profiles and job applications of the relevant candidates are in the custody of VSB. I find that the second requirement is satisfied.

Created using the public body’s normal computer hardware, software, and technical expertise

[49] Past orders have interpreted the “normal computer hardware, software, and technical expertise” language in s. 6(2)(a) as concerning the technology required to produce the record such that “normal technical expertise” refers to the technical expertise required to use the computer hardware and software.²⁶

[50] Past orders also provide that while a public body is required to use human effort that is an ordinary part of using computer software and hardware and technical expertise, such as pushing buttons or entering commands,²⁷ s. 6(2)(a) does not require a public body to:

- manually adjust raw data beyond the incidental,
- use outside or specialized expertise or to engage in extraordinary manual effort to create the requested record, or
- create a completely different type of record when there are already existing records that respond to the request.²⁸

[51] The parties disagree about what is required to create the Requested Record. The applicant’s position is that all that is really required is to cross reference the information in the Job Binders with the information in PeopleSoft. However, I am not persuaded that the applicant’s description provides a complete picture. In my view, VSB’s evidence is more grounded in the nature of the Source Records and provides a more complete picture of what steps would be required. In addition, VSB provided evidence from two individuals familiar with the Source Records, one of whom performed some of the work required to create the Requested Record. For these reasons, I find VSB’s evidence about what is required to create the Requested Record to be more persuasive.

²⁶ Order F24-07, 2024 BCIPC 10 (CanLII) para 24.

²⁷ Order F21-07, 2021 BCIPC 8 (CanLII) at para 41.

²⁸ Order F10-30, 2010 BCIPC 43 (CanLII), para. 18; Order F17-21, 2017 BCIPC 22 (CanLII), para. 18; Order F21-07, 2021 BCIPC 8 (CanLII), 2021 BCIPC 08 (CanLII), para. 41; Order F23-55, 2023 BCIPC 64 (CanLII), para. 37.

[52] Thus, considering VSB's evidence about the nature of the Source Records and tasks required, I find that the work required to create the Requested Record is as follows:

- Obtain or create a list of internal candidates for each job competition that took place between 2015-2022;
- Obtain each internal candidate's date of birth from PeopleSoft;
- Calculate each internal candidate's age at the time of the relevant job competition;
- Categorize each internal candidate based on whether they applied, were granted an interview, or were offered a position;
- Resolve any issues caused by discrepancies between names used in PeopleSoft versus job applications and the use of the VP Pool; and
- Use the above information to generate the Requested Record – that is to generate a list organized by year of job competition, age range at the time of each competition, and degree of success in the job competition.

[53] The Records Manager deposes that this work would need to be performed manually. In my view, that conclusion is supported by the Records Manager's evidence that there is no integration or shared key words between PeopleSoft and the job applications; that some of the information required to create the Requested Record would need to be interpreted or calculated from the information in the Source Records; and the complexities identified by the Retiree.

[54] In addition to VSB's evidence, the applicant does not assert that the Requested Record could be created using a computer or VSB's normal computer hardware, software, or technical expertise. Rather, the applicant's primary position seems to be that the work required to create the Requested Record, though manual, would not be as complex or require as much manual effort as VSB asserts.

[55] Finally, considering the nature of the Source Records and the tasks required to convert the information in the Source Records to the format requested by the applicant, I cannot see how any of the required work could be performed using computer hardware, software, or the technical expertise required to use the computer hardware and software. For the reasons above, I find that the work required to create the Requested Record would need to be performed through manual human effort. More specifically, I find that to create the Requested Record, VSB would be required to assign a person or persons to cross reference information from different types of records; locate information from various sources including, in some cases, the body of job applications; calculate ages from date of birth and date of job competition; resolve issues related to naming discrepancies and the use of the VP Pool; and convert all of this information into the age ranges and broader format requested by the applicant.

[56] In the circumstances, I find that the work required to create the Requested Record cannot be performed using computer hardware, software, or the technical expertise required to use the computer hardware and software.²⁹ I also find that performing these tasks would require VSB to manually adjust data well beyond the incidental, and to engage in the kind of extraordinary manual effort which s. 6(2)(a) does not require. For both reasons, I find that the third requirement of s. 6(2)(a) is not satisfied.

[57] I find that the requirements of s. 6(2)(a) are not satisfied. Given this conclusion, it is not necessary that I also consider s. 6(2)(b) and I decline to do so.

CONCLUSION

[58] Given the above, I find that s. 6(2) does not require VSB to create the Requested Record. Accordingly, under s. 58 of FIPPA, I confirm that VSB is not required by s. 6(2) to create a record responsive to the applicant's access request.

April 30, 2026

ORIGINAL SIGNED BY

Allison J. Shamas, Adjudicator

OIPC File No.: F23-93944

²⁹ See paragraph 49 above.