



Order F26-37

## QATHET REGIONAL DISTRICT

Rene Kimmett  
Adjudicator

May 07, 2026

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**Summary:** Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked the qathet Regional District (Regional District) for access to records related to his former employment. The Regional District disclosed some responsive records but withheld information under various sections of FIPPA. The adjudicator confirmed the Regional District's decision to withhold all of the information it withheld under s. 14 (solicitor-client privilege) and most of the information it withheld under s. 13(1) (advice or recommendations). The adjudicator also required the Regional District to withhold most of the information it withheld under s. 22(1) (unreasonable invasion of third-party personal privacy). The adjudicator ordered the Regional District to give the applicant access to the information it was not authorized or required to withhold.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, s. 13(1), 13(2)(a), 13(3), 14, 22(1), 22(2)(a), 22(2)(e), 22(2)(f), 22(2)(h), 22(3)(a), 22(3)(d), and 22(4).

## INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (applicant) asked the qathet Regional District (Regional District) for access to records related to his former employment with the Regional District.

[2] The Regional District provided the applicant with responsive records but withheld some information under ss. 13(1) (advice or recommendations), 14 (solicitor-client privilege), 15(1) (harm to law enforcement), 19(1) (harm to individual or public safety), and 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA.

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Regional District's decision to withhold information from the records.

[4] After the applicant submitted his request for review to the OIPC, the Regional District withdrew its reliance on ss. 15(1) and 19(1) but continued to withhold other information under ss. 13(1), 14, and 22(1).<sup>1</sup> OIPC-led mediation did not resolve the remaining issues in dispute, and the file proceeded to inquiry.

## ISSUES AND BURDEN OF PROOF

[5] In this order, I must decide the following issues:

1. Is the Regional District authorized to withhold the information in dispute under ss. 13(1) or 14?
2. Is the Regional District required to withhold the information in dispute under s. 22(1)?

[6] The Regional District has the burden to prove that the applicant has no right of access to the information in dispute under ss. 13(1) and 14.<sup>2</sup> It also has the burden to prove that the information withheld under s. 22(1) is personal information.<sup>3</sup>

[7] The applicant has the burden to prove that disclosure of the information in dispute under s. 22(1) would not unreasonably invade a third party's personal privacy.<sup>4</sup>

## DISCUSSION

### ***Background***

[8] The applicant was previously employed by the Regional District. During the applicant's employment, the Regional District received complaints made by the applicant about others and complaints made by others about the applicant.<sup>5</sup>

[9] The Regional District retained legal counsel to provide legal advice about the complaints,<sup>6</sup> and an external investigator to investigate the complaints. The investigations included interviews with the subjects of the complaints (i.e. the

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<sup>1</sup> Fact Report at para 4.

<sup>2</sup> FIPPA, s. 57(1).

<sup>3</sup> Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

<sup>4</sup> FIPPA, s. 57(2).

<sup>5</sup> Regional District's initial submission at para 5.

<sup>6</sup> *Ibid* at para 6.

applicant and other respondents), the complainants, and witnesses. At the end of the investigations the investigator prepared reports summarizing her findings.<sup>7</sup>

[10] The applicant's access request, which was submitted after the investigations, seeks all information pertaining to him in the most recent workplace investigation.<sup>8</sup>

### **Records at issue**

[11] The records total 2,300 pages. Five hundred eighty-four of these pages are entirely withheld under s. 14 (the Entirely Withheld Records)<sup>9</sup> and 1,716 pages are partially withheld under ss. 13(1) and 22(1).<sup>10</sup> Some information in the Entirely Withheld Records has also been withheld under ss. 13(1) and 22(1).

### **Section 14 – solicitor-client privilege**

[12] Section 14 of FIPPA allows a public body to withhold information that is subject to solicitor-client privilege. Under s. 14, "solicitor-client privilege" encompasses legal advice privilege and litigation privilege. In this matter, the Regional District argues that legal advice privilege applies.

[13] For information to be protected by legal advice privilege, the information must be:

- a communication between a solicitor and client (or their agent);
- made for the purpose of seeking or providing legal advice; and
- intended by the solicitor and client to be confidential.<sup>11</sup>

[14] Legal advice privilege also applies to information that, if disclosed, would reveal or allow an accurate inference to be made about privileged information.<sup>12</sup>

[15] Further, legal advice privilege extends beyond the actual requesting or giving of legal advice to the "continuum of communications" between a lawyer and client, which includes the necessary exchange of information for the purpose

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<sup>7</sup> Regional District's initial submission at paras 7-8.

<sup>8</sup> Applicant's access request.

<sup>9</sup> Records package #5.

<sup>10</sup> Records packages #1 – #4.

<sup>11</sup> *Solosky v. The Queen*, 1979 CanLII 9 (SCC), [1980] 1 SCR 821 at 837.

<sup>12</sup> *Ibid* at 834.

of providing legal advice<sup>13</sup> and internal client communications about the implications of the legal advice received.<sup>14</sup>

[16] The Regional District provided me with copies of the records it entirely withheld under s. 14. These records are emails between senior Regional District staff and a lawyer as well as attachments to those emails.

[17] To support its submissions, the Regional District provided an affidavit from its Corporate Officer. I can see that she was the sender or recipient of each of the emails in the Entirely Withheld Records. The Corporate Officer deposes that these records are confidential communications seeking and giving legal advice and that the attachments to these communications are integral to that legal advice.

[18] The applicant submits the Corporate Officer “has a conflict of interest in providing affidavit evidence regarding the withholding of information because she is personally intertwined in the Records and may have personal, managerial, or reputational interests in maintaining redactions.”<sup>15</sup> The applicant also submits that the records created for administrative or investigative purposes do not become privileged simply because they were later shared with legal counsel.<sup>16</sup>

[19] I disagree with the applicant’s assessment of the Corporate Officer’s credibility. I find that the Corporate Officer’s involvement in the emails actually lends credibility to her knowledge of the records in dispute and the context in which they were created.

[20] Based on the Regional District’s evidence, which includes the Corporate Officer’s affidavit and the records themselves, I find the Regional District was in a solicitor-client relationship with the lawyer in the relevant communications and at the relevant times. I also find that the emails sent between senior Regional District staff and the lawyer were sent for the purpose of seeking or providing legal advice and were intended to be confidential.

[21] I find that the attachments can be withheld under s. 14. Some of the attachments to the emails directly communicate legal advice. Other attachments do not communicate legal advice but do fall within the continuum of communications related to the Regional District’s seeking and receiving of legal advice. I readily draw these conclusions because I can see that Regional District staff expressly sought legal advice related to each of the documents they

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<sup>13</sup> *Huang v Silvercorp Metals Inc.*, 2017 BCSC 795 at para 83 and *Camp Development Corporation v. South Coast Greater Vancouver Transportation Authority*, 2011 BCSC 88 at para 42.

<sup>14</sup> *Bilfinger Berger (Canada) Inc. v. Greater Vancouver Water District*, 2013 BCSC 1893 at paras 22-24.

<sup>15</sup> Applicant’s submission, part 2 at page 1.

<sup>16</sup> Applicant’s submission, part 1 at para 22.

attached to the relevant communications. This is not a situation, as alleged by the applicant, in which a public body has claimed legal advice privilege over documents simply because the documents were sent to a lawyer for a purpose other than obtaining legal advice.

[22] The applicant says that some of the withheld information in these records can be severed and disclosed.<sup>17</sup> The courts have emphasized that severing information in the continuum of communications about legal advice can only occur when there is no risk of revealing legal advice provided by the lawyer to the client.<sup>18</sup> In these circumstances, and based on my personal review of the records, I am unable to conclude there is no risk of revealing privileged information if any of the information is disclosed; therefore, I find disclosing information from these records is not possible without impinging upon the privilege.

[23] In summary, I find the Regional District is authorized to withhold all of the information in the Entirely Withheld Records under s. 14.

[24] The Regional District has applied ss. 13(1) and 22(1) to some information in the Entirely Withheld Records. I have already found this information is subject to solicitor-client privilege and, therefore, can be withheld under s. 14. I will not consider whether ss. 13(1) or 22(1) also apply to this information.

### **Section 13 – advice or recommendations**

[25] Section 13(1) authorizes the head of a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body or minister.

[26] Section 13(1) protects “a public body’s internal decision-making and policy-making processes, in particular while the public body is considering a given issue, by encouraging the free and frank flow of advice and recommendations.”<sup>19</sup>

[27] A public body is authorized to refuse access to information under s. 13(1) when the information itself directly reveals advice or recommendations or when its disclosure would permit accurate inferences about such advice or recommendations.<sup>20</sup>

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<sup>17</sup> Applicant’s submission, part 1 at para 23.

<sup>18</sup> *British Columbia (Attorney General) v. Lee*, 2017 BCCA 219 at para. 51, cited in *British Columbia (Minister of Finance) v British Columbia (Information and Privacy Commissioner)*, 2021 BCSC 266 (CanLII) at para 67.

<sup>19</sup> Order 01-15, 2001 CanLII 21569 at para 22.

<sup>20</sup> Order 02-38, 2002 CanLII 42472 at para 135. See also Order F17-19, 2017 BCIPC 20 (CanLII) at para 19.

[28] The word “recommendations” includes material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised and can be express or inferred.<sup>21</sup> The word “advice” has a distinct and broader meaning than “recommendations.”<sup>22</sup> and includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact on which a public body must make a decision.<sup>23</sup>

[29] The Regional District has withheld the following information from the partially withheld records under s. 13(1):

- headings in an investigation report.
- the investigator’s opinion on how to proceed with the investigation process.
- the investigator’s opinion on an email the applicant sent her.
- the Corporate Officer’s proposed courses of actions and explanation for preferring one course over another.
- the investigator’s findings of fact about the credibility of various parties in the investigation and on the merits of some of the complaints.

[30] The Regional District submits that this information is either advice or recommendations or background information integral to the advice or recommendations developed for the Regional District in the context of the deliberative process of responding to workplace complaints.

[31] The applicant submits that the Regional District has “impermissibly applied section 13 as a class exemption [...] without demonstrating how disclosure would reveal [advice or recommendations].”<sup>24</sup> He submits “expert opinions may constitute advice only where they are forward-looking and decision-oriented. The [Regional District] improperly extends [case law] to encompass investigative findings and factual analysis explaining past events.”<sup>25</sup> The applicant submits “background information is exempt only where it is so inextricably linked to advice that disclosure would effectively reconstruct the advice itself.”<sup>26</sup>

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<sup>21</sup> *John Doe v. Ontario (Finance)*, 2014 SCC 36 at paras 23-24.

<sup>22</sup> *Ibid* at para 24.

<sup>23</sup> *College of Physicians of BC v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 at para 113.

<sup>24</sup> Applicant’s submission at para 9.

<sup>25</sup> *Ibid* at para 14.

<sup>26</sup> *Ibid* at para 16.

*Information that would not reveal advice or recommendations*

[32] I find that the major headings in the investigation report reveal only the general structure of the report and do not reveal, or permit accurate inferences about, any advice or recommendations developed by or for the Regional District. This information, which I have determined would not reveal any advice or recommendations, cannot be withheld under s. 13(1).

*Information that would reveal advice or recommendations*

[33] For the reasons that follow, I find that disclosing any of the rest of the information I am considering under s. 13(1) would reveal advice or recommendations developed for the Regional District.

[34] Having reviewed the information at issue, I can see that the investigator and Corporate Officer provided their recommendations about the investigation process directly to the Regional District. The investigator also provided her opinion about the merits of the complaints following her investigation. This opinion involved exercising judgment and skill to weigh the significance of matters of fact on which the Regional District needed to make a decision. For these reasons, I find that the investigator and, in one instance, the Corporate Officer provided recommendations or advice to the Regional District about how the investigation should be conducted and whether the complaints were substantiated. Consequently, I find that this information falls squarely under s. 13(1).<sup>27</sup>

[35] I also find that the Regional District did not apply s. 13(1) as a blanket exception, as alleged by the applicant. I base this finding on the pattern of severing, which supports a finding that the Regional District applied s. 13(1) after conducting a line-by-line review of the records.

[36] While the Regional District says that some of the information in dispute is background information that is integral to the advice or recommendations, my own review of this information leads me to find that all of the information is itself advice or recommendations (depending on the information in question) and that none of it is background information.

[37] Having found that this information is advice or recommendations, I must now consider whether any of it cannot be withheld because it falls under any of the circumstances listed under ss. 13(2) or 13(3).

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<sup>27</sup> For similar findings, see *College of Physicians*, *supra* note 23 at paras 105, 106, and 114;

### Section 13(2)

[38] Section 13(2)(a) reads: the head of a public body must not refuse to disclose, under s. 13(1), any factual material.

[39] The term “factual material” is not defined in FIPPA. However, the courts have interpreted this term to mean “source materials” or “background facts in isolation” that are not necessary to the advice provided.<sup>28</sup> If factual information is compiled and selected by an expert and is an integral component of their advice, then it is not “factual material” under s. 13(2)(a).<sup>29</sup>

[40] The applicant submits that findings of fact, interview summaries, and descriptions of conduct remain factual even when assembled by professionals and cannot be withheld under s. 13(1).<sup>30</sup>

[41] I find that none of the information that falls under s. 13(1) is factual material. The withheld findings of fact are part of the advice that the investigator provided the Regional District regarding whether the complaints were substantiated. The Regional District asked the investigator to conduct the investigation so that it could make decisions about what actions to take in response to the workplace complaints. The Regional District has not withheld interview summaries or descriptions of conduct under s. 13(1).

[42] I have considered whether any of the information withheld under s. 13(1) falls under any other circumstance listed in s. 13(2) and I find that it does not.

### Section 13(3)

[43] I find that the information in dispute has not been in existence for 10 or more years and, therefore, s. 13(3) does not apply to this information.

### *Summary – s. 13*

[44] Some of the information in dispute would not reveal, or allow accurate inferences to be made about, advice or recommendations. This information cannot be withheld under s. 13(1). Disclosure of the rest of the information I am considering under s. 13(1) would reveal advice and recommendations developed for the Regional District, and ss. 13(2) and 13(3) do not apply to this information. As a result, the Regional District may withhold this information under s. 13(1).

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<sup>28</sup> Order F22-39, 2022 BCIPC 44 at para 86.

<sup>29</sup> *Ibid.*

<sup>30</sup> Applicant’s submission at para 19.

**Section 22(1) – harm to third-party personal privacy**

[45] Section 22(1) requires a public body to refuse to disclose personal information if disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the applicant and a public body.<sup>31</sup>

[46] There are four steps in the s. 22(1) analysis and I will apply each step under the subheadings below.<sup>32</sup>

**Section 22(1) – personal information**

[47] The first step in the s. 22(1) 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>33</sup>

[48] Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.<sup>34</sup> 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”.<sup>35</sup> Whether information is “contact information” depends on the context in which it appears.<sup>36</sup>

[49] The information the Regional District has withheld under only s. 22(1) can be generally described as:

- information about the investigations, including:
  - information about the complainants, respondents, and witnesses to the matters under investigation, including what these individuals said and did during incidents relevant to the investigation.
  - the number of witnesses that participated in each investigation.
  - an entire investigation report in which the applicant is neither a complainant nor respondent.
- information about a third party's reasons for being absent from work and third parties participating in training.

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<sup>31</sup> FIPPA, Schedule 1.

<sup>32</sup> Order F15-03, 2015 BCIPC 3 (CanLII) at para 58

<sup>33</sup> FIPPA, Schedule 1.

<sup>34</sup> Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.

<sup>35</sup> FIPPA, Schedule 1.

<sup>36</sup> Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

[50] The Regional District submits all of this information is personal information.<sup>37</sup>

[51] I find that the following information is not reasonably capable of identifying a particular individual and, therefore, is not personal information:

- the major headings in the investigation reports.
- some template language in letters sent to parties to the investigations.

[52] I find the remainder of the withheld information is personal information because it is about identifiable individuals and is not contact information.

[53] There are instances in which the public body has withheld third parties' phone numbers and email addresses. Some of them are associated with their workplaces and some are personal. Regardless, in each instance, I find that this information does not appear in the records merely to enable an individual to be contacted at a place of business. Instead, this information is in the records to enable the investigator to interview these individuals about the workplace investigations, not for these individuals to conduct business. For this reason, I find this information is not contact information and is personal information.

*Section 22(4) – not an unreasonable invasion of personal privacy*

[54] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). If it does, its disclosure is deemed not to be an unreasonable invasion of personal privacy. The Regional District submits that the information in dispute does not fall under any of the categories listed in s. 22(4). The applicant does not make submissions about s. 22(4).

[55] I have considered whether any of the circumstances under s. 22(4) apply to the information in dispute and find that they do not.

*Section 22(3) – presumed an unreasonable invasion of personal privacy*

[56] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[57] The Regional District submits that ss. 22(3)(a) and 22(3)(d) apply to some of the information in dispute. The parties did not identify any other s. 22(3)

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<sup>37</sup> Regional District's initial submission at para 56.

presumptions to consider, and I am satisfied there are no other s. 22(3) circumstances that may be relevant.

Section 22(3)(a) – medical history

[58] Section 22(3)(a) states that disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation.

[59] The Regional District submits that some of the information in dispute is personal information related to a third party's health and medical history.<sup>38</sup> I find this personal information is not about the third party's medical history, diagnosis, condition, treatment or evaluation. Section 22(3)(a) does not apply to this information.

Section 22(3)(d) – employment history

[60] Section 22(3)(d) states that disclosure is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information relates to the employment, occupational, or educational history of a third party.

[61] The Regional District submits an employee's descriptions of their reasons for being absent from work relates to their employment history. I agree with this submission and find s. 22(3)(d) applies to this personal information.<sup>39</sup>

[62] The Regional District submits that the names of third-party employees contained in training attendance logs relate to those employees' employment histories because it shows that they have participated in a particular course. I accept this line of reasoning and find that disclosing these individuals' names where they appear in the training logs would reveal information about their individualized professional development, which relates to their employment histories within the meaning of s. 22(3)(d).<sup>40</sup>

[63] Lastly, the Regional District submits that s. 22(3)(d) applies to the identifying information of individuals "connected to confidential workplace matters" and those "individuals' personal opinions" with respect to the workplace complaints.

[64] I find that the Regional District characterizes the scope of s. 22(3)(d) too broadly when applying it to this information. Section 22(3)(d) does not apply to

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<sup>38</sup> Regional District's initial submission at para 62.

<sup>39</sup> For a similar finding, see Order F22-17, 2022 BCIPC 19 (CanLII) at para 40.

<sup>40</sup> For other orders that find s. 22(3)(d) applies to training, see: Order F26-12, 2026 BCIPC 15 (CanLII) at para 134; Order F19-41, 2019 BCIPC 46 (CanLII) at 61.

records simply because they are part of a workplace investigation. Instead, previous OIPC orders have found that employment history includes:

- descriptive or qualitative information about a third party who is being investigated as part of a workplace matter or dispute, including descriptions of the third party's workplace behaviour or actions provided by a complainant, witness, or investigator.<sup>41</sup>
- information in a third party's witness statement or complaint that reveals information about their own employment or the employment of other third parties, such as the effect that the matter under investigation has had on their work performance or details about their work history.<sup>42</sup>

[65] A third party's employment history does *not* include descriptions, comments or opinions about what the third party observed, said or did, provided as part of a workplace investigation where they were not the subject of the investigation, if the descriptions, comments, or opinions do not reveal anything about their work performance or history.

[66] For the reasons below, I find that the majority of the information in dispute relates to the employment histories of the third-party complainants and respondents.

[67] This information is contained in accounts provided by third parties or the applicant and findings made by the investigator. Where the withheld personal information is contained in complaints about the applicant, I find that the complaints are formulated in a manner that describes the workplace behaviour and performance of both the applicant and third parties.

[68] I note that one complaint is about events that occurred outside of the workplace. While this information is not, on its face, about anyone's workplace conduct, this information appears in the context of a workplace investigation into the applicant's and a third party's off duty conduct. Given that this personal information appears in a workplace investigation report and, therefore, has been imported into the employment sphere, I find it relates to the applicant's and the third party's employment histories. Consequently, disclosure of this information is presumed to be an unreasonable invasion of the third party's personal privacy.

[69] Notwithstanding my findings above, I also find that s. 22(3)(d) does not apply to the following information:

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<sup>41</sup> Order 01-53, 2001 CanLII 21607 (BC IPC) at paras 32-38.

<sup>42</sup> *Ibid.* See also Order F23-56, 2023 BCIPC 65 (CanLII) at para 77.

- a statement by the investigator that she has provided the particulars of a complaint to someone with whom she would like to discuss the complaint.
- a question about whether other witnesses have been contacted.
- the number of witnesses that participated in each investigation.
- a generic comment wishing a third party well over the holidays.

[70] None of this listed information relates to a third party's employment history.

*Section 22(2) – all relevant circumstances*

[71] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine whether the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy. It is at this step that the applicant may rebut the s. 22(3)(d) presumption that I found applies to some of the information in dispute.

[72] The parties make submissions about ss. 22(2)(a), 22(2)(e), 22(2)(f), and 22(2)(h). I consider these and other relevant factors under the subheadings below.

Section 22(2)(a) – subject the activities of a public body to public scrutiny

[73] Section 22(2)(a) requires a public body to consider whether disclosure of the personal information in dispute is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny.

[74] The applicant submits disclosure is desirable for public scrutiny under s. 22(2)(a) because the investigative findings affected the applicant's standing and future opportunities.<sup>43</sup>

[75] I have outlined the personal information above. I note that most of it is about third-party complainants, respondents and witnesses, a third party being away from work, and third parties participating in training. The withheld personal information does not reveal anything about a public body's activities so disclosure would only serve to subject individual third parties to scrutiny. I find that disclosure would not be desirable for subjecting the activities of a public body to public scrutiny and, therefore, s. 22(2)(a) does not weigh in favour of disclosure.

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<sup>43</sup> Applicant's submission at para 33.

Section 22(2)(f) – supplied in confidence

[76] Section 22(2)(f) asks whether the personal information was supplied in confidence. In order for s. 22(2)(f) to apply, there must be evidence that an individual supplied the information and that they did so with an objectively reasonable expectation of confidentiality at the time the information was provided.<sup>44</sup>

[77] The Regional District submits it is clear that the personal information in dispute was supplied in confidence because the policy governing the investigation states that the investigation is confidential and the correspondence related to the investigation expressly states that the information was supplied in confidence.<sup>45</sup>

[78] The emails in which complainants, respondents, and witnesses sent information to the investigator are, in many instances, marked “confidential” or otherwise indicate an expectation of confidentiality.

[79] Where the emails do not contain express statements of confidentiality, I find that the sender had an implicit expectation that the information they shared in the context of the workplace investigation would be kept confidential by the investigator and employer. In making this finding, I note that the policy governing the investigation, which is contained in the records and has been disclosed to the applicant, states: “All Bystanders, Witnesses, and Parties involved in a Complaint or in the informal/formal resolution of a Complaint, are expected to keep matters related to a Complaint confidential. This includes managers and supervisors who are privy to the Complaint or Complaint resolution process.”<sup>46</sup>

[80] Based on the above, I find that the third parties had a reasonable expectation of confidentiality related to the statements they gave the investigator at the time they supplied the statements. This factor weighs in favour of withholding this information.

Section 22(2)(e) and 22(2)(h) – unfair damage to reputation or other harm

[81] Section 22(2)(e) asks whether disclosure will unfairly expose a third party to financial or other harm. Previous orders have stated that harm under s. 22(2)(e) includes “serious mental distress or anguish or harassment”.<sup>47</sup>

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<sup>44</sup> Order F22-13, 2022 BCIPC 15 (CanLII) at para 108; Order 01-36, 2001 CanLII 21590 (BC IPC) at paras 23-26.

<sup>45</sup> Regional District’s initial submission at para 74(c).

<sup>46</sup> Records package #2 at page 72.

<sup>47</sup> Order 01-37, 2001 CanLII 21591 at para 42.

[82] Section 22(2)(h) requires a public body to consider whether disclosure of personal information may unfairly damage the reputation of any person referred to in the records.

[83] The Regional District submits that, given the nature and context of the records in dispute, it is reasonable to infer that disclosure of the personal information will expose third parties named in the documents unfairly to harm under s. 22(2)(e) and may unfairly damage the reputation of persons referred to in the investigation reports.

[84] I find the Regional District has only provided a bare assertion that these provisions apply and has not provided persuasive evidence or a coherent explanation to support its position on this subject. I am not satisfied, based on my review of the materials before me, that these provisions apply. As a result, I find ss. 22(2)(e) and 22(2)(h) do not weigh in favour of withholding the information in dispute.

#### Applicant's personal information

[85] Some of the personal information in dispute is third parties' descriptions of the applicant's behaviour recorded in the context of the workplace investigations. Past orders have found that the fact personal information is about the applicant may weigh in favour of disclosure.<sup>48</sup>

[86] This personal information is simultaneously the applicant's and the third parties' personal information. I find the fact that this information is the applicant's own personal information weighs in favour of disclosure, but I give this consideration less weight because this personal information is interwoven with third parties' personal information and cannot be further severed from the personal information of those third parties.

#### Sensitivity

[87] Previous OIPC orders have held that the sensitivity of the information in dispute may be a relevant circumstance either for or against disclosure.<sup>49</sup> In this case, I find that the information to which s. 22(3)(d) does not apply is innocuous and primarily about procedural steps taken during the investigation. I find the fact that this information is innocuous weighs in favour of disclosure.

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<sup>48</sup> Order F25-93, 2025 BCIPC 109 (CanLII) at para 96.

<sup>49</sup> For example, Order F23-29, 2023 BCIPC 33 at para 74

*Conclusion – s. 22*

[88] I found most of the information I am considering under s. 22(1) is personal information. I found that none of the categories under s. 22(4) apply to the personal information in dispute.

[89] I found most of the information in dispute falls under s. 22(3)(d) because it relates to the employment histories of third parties. Disclosure of this personal information is presumed to be an unreasonable invasion of the third parties' personal privacy. I found this personal information is simultaneously third parties' and the applicant's personal information. While this factor weighs in favour of disclosure, I find it is not sufficient to overcome the s. 22(3)(d) presumption. In making this finding, I note that all of this information was supplied in confidence and there are no other factors that weigh in favour of disclosing this personal information.

[90] Turning to the information to which s. 22(3) did not apply, I found this information is innocuous and that this factor weighed in favour of disclosure. Given there are no factors that weigh in favour of withholding this information, I find that its disclosure would not unreasonably invade a third party's personal privacy. The Regional District is not required to withhold this information under s. 22(1) and must disclose it to the applicant.

[91] In conclusion, the Regional District is required to refuse access to most of the information I have considered under s. 22(1) because disclosure would constitute an unreasonable invasion of third parties' personal privacy. However, it cannot withhold the information that I determined is not personal information or the personal information the disclosure of which I found would not unreasonably invade third-party personal privacy.

**CONCLUSION**

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

1. Subject to item #2 below, I confirm the Regional District's decision to refuse access to the information in dispute under ss. 13(1) and 14.
2. The Regional District must give the applicant access to the information I have found it is not authorized to withhold under s. 13(1).
3. Subject to item #4, I require the Regional District to refuse access to the personal information it has withheld under s. 22(1) that I have not otherwise determined it may withhold under s. 14.

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4. The Regional District must give the applicant access to the information I have found it is not required to withhold under s. 22(1).
  5. The Regional District must provide the OIPC registrar of inquiries with a copy of the cover letter and records it sends to the applicant in compliance with this order.

[93] I will be providing the Regional District a copy of the records in which I have highlighted, in green, the information it withheld that it is not authorized or required to refuse access to under FIPPA.

[94] Pursuant to s. 59(1) of FIPPA, the Regional District is required to comply with this order by June 19, 2026.

May 07, 2026

**ORIGINAL SIGNED BY**

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Rene Kimmett, Adjudicator

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