Order F26-68

CAMOSUN COLLEGE

Alexander Corley
Adjudicator

July 30, 2026

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Summary: An employee (applicant) of Camosun College (public body) requested under the *Freedom of Information and Protection of Privacy Act* (FIPPA) that the public body provide them with records related to workplace investigations involving the applicant. The public body provided the applicant with most of the information they had requested but withheld some information and records under ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of privacy) of FIPPA. The adjudicator found that the public body was authorized or required to withhold much, but not all, of the information in dispute under ss. 13(1) and 22(1) and ordered the public body to provide all the information the public body was not authorized or required to withhold to the applicant. The adjudicator also found that the public body was not required to produce a summary of any of the information in dispute under s. 22(5).

Statutes Considered: *Freedom of Information and Protection of Privacy Act* [RSBC 1996, c. 165] at ss. 13(1), 13(2)(a), 22(1), 22(2)(c), 22(2)(e), 22(2)(f), 22(3)(a), 22(3)(d), 22(4)(e), and 22(5).

INTRODUCTION

[1] This inquiry decides a dispute between Camosun College (public body) and one of its employees (applicant) over whether the applicant can access information related to two workplace investigations (investigation 1, investigation 2)[1] under the *Freedom of Information and Protection of Privacy Act* (FIPPA).[2]

[2] The applicant requested a series of records related to the investigations from the public body. In response, the public body disclosed responsive records

[1] Technically, investigation 2 considered and resolved two distinct but related matters. However, for convenience and because it makes no difference to any of my conclusions below, I have grouped them together under a single heading throughout this order.
[2] RSBC 1996, c. 165. Through the remainder of this order, references to sections of an enactment are references to FIPPA unless otherwise stated.

to the applicant but severed information from those records pursuant to ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of privacy).

[3] The applicant did not accept that the public body was authorized or required to withhold the requested information under ss. 13(1) or 22(1) and asked the Office of the Information and Privacy Commissioner for British Columbia (OIPC) to review the public body's decision to sever information from the records.

[4] Ultimately, mediation by the OIPC did not resolve the issues in dispute between the parties and the applicant requested that the matter proceed to this inquiry.[3] Both parties provided written submissions setting out their position in the inquiry and documentary evidence seeking to support those positions.

ISSUES

[5] At this inquiry, I must decide:

1. Whether the public body is authorized to withhold the information in dispute under s. 13(1)?
2. Whether the public body is required to withhold the information in dispute under s. 22(1)?

[6] Section 57(1) says it is up to the public body to show that it is authorized to withhold the information in dispute under s. 13(1).

[7] Under s. 57(2), the applicant bears the burden of showing that disclosing any of the personal information the public body has withheld under s. 22(1) would not be an unreasonable invasion of the personal privacy of any third parties. However, it is well established that the public body bears the initial burden of showing the information it has withheld under s. 22(1) is, in fact, personal information.

DISCUSSION

Background and records in dispute

[8] The public body is a post-secondary institution operating within British Columbia and designated as a "college" under the *College and Institute Act*.[4] The applicant is an employee of the public body and a member of an associated union (union).

[3] Prior to the inquiry, the public body reconsidered its severing decisions and released some of the information it had initially withheld under s. 22(1) to the applicant. That information is no longer in dispute between the parties.
[4] RSBC 1996, c 52.

[9] During the course of their employment, the applicant was the subject of investigation 1 which related to allegations of misconduct by the applicant including allegedly engaging in bullying or otherwise harassing their coworkers.

[10] Ultimately, the public body concluded that the applicant had breached its "Standards of Conduct" and disciplined the applicant.

[11] Subsequently, the applicant lodged their own complaints under the public body's Respectful Workplace Policy alleging that they had themselves been subject to bullying and harassment by several coworkers. In response, the public body retained an external investigator (investigator) to conduct investigation 2 and examine the merits of the applicant's complaints. At the conclusion of investigation 2, the investigator prepared and issued two reports to the public body (investigation 2 reports) in which the investigator concluded that the evidence did not substantiate the applicant's claim they had been bullied or harassed by their coworkers.

[12] The applicant was advised of the investigator's findings and appealed those findings under the Respectful Workplace Policy.[5]

[13] Some time later, the applicant made the access request which gave rise to the dispute before me. Therein, the applicant requested the following records created during a three-month period:[6]

1. Records related to investigation 1;
2. Records setting out the complaints or allegations made against the applicant;
3. The dates the allegations which gave rise to investigation 1 were filed or received by the public body;
4. An inventory of any items the applicant is alleged to have inappropriately taken from their workplace;
5. A copy of any decision letter that may have been drafted at the conclusion of investigation 1;
6. Records related to the public body's decision to discipline the applicant based on the outcome of investigation 1; and,
7. The recommendations made by the investigator at the conclusion of investigation 2.

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[5] The parties do not address the outcome of the applicant's appeal in their submissions but the disputed records contain information leading me to conclude the matter has been closed for some time (see records at pp. 149-150).
[6] Some of the records before me were clearly created after the time frame specified in the request, however the parties seem to agree that they are responsive to the access request and are properly in dispute so I have considered them below.

[14] In response, the public body identified 422 pages of records responsive to the applicant's access request. From my review, I can see that these records are composed in large part of internal emails and other communications made among employees and representatives of the public body, including the applicant. The records also contain:

- logs related to security camera surveillance of the public body's property;
- communications between the public body or the applicant and the investigator;
- statements provided to the public body and the investigator by the applicant and third parties;
- interview notes related to the applicant's and the third parties' statements; and,
- complete copies of the investigation 2 reports.

[15] In their inquiry submission, the applicant says that they are no longer seeking to access the records listed in item 6, above, on the basis that such records likely "do not exist." I do not see that any of the information the public body has withheld relates solely to item 6. For completeness, I will not exclude any information from consideration based on what the applicant says about item 6.

[16] The applicant also says that, concerning item 7, they are only seeking release of "factual material contained in the [investigator's summary]" and not any opinions or recommendations provided by the investigator in the investigation 2 reports. However, I find the applicant does not sufficiently particularize their submission on this point and it seems to me that only a small amount of the information in dispute could potentially fall within the category the applicant is seeking to exclude from consideration. As such, for completeness, I will not exclude any information from consideration based on what the applicant says about item 7.

[17] Further, the applicant identifies a specific third party by name and says they are not seeking the release of any information which is the personal information of that third party.[7] The public body also indicates that it intends to release a small amount of information on two pages of the records to the applicant at the conclusion of the inquiry.[8] It is also clear to me that the dates

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[7] The records contain information which I find is the personal information of the third party named by the applicant. However, I will not provide citations to that information because I find that doing so would link revealed information in the records directly to that third party.

[8] This information is on pp. 374 and 376 of the records. For clarity, my order below at para. 145 requires the public body to release this information to the applicant because if the public body had

requested in item 3 have already been disclosed to the applicant. Given all of this, I find that the information referenced in this paragraph is no longer in dispute and I will not consider whether the public body is authorized or required to withhold it.

Section 13(1) – advice or recommendations

[18] 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 a minister.

[19] Numerous OIPC orders and court cases have considered the scope and application of s. 13(1). These authorities make clear that the purpose of s. 13(1) is to prevent the harm that would occur if a public body's deliberative and decision-making processes were exposed to excessive public scrutiny.[9] In Order F22-39, the adjudicator canvassed the law and summarized the principles for interpreting s. 13(1) as follows:[10]

- Section 13(1) applies to information that "would reveal" advice or recommendations and not only to information that "is" advice or recommendations.[11]

- The terms "advice" and "recommendations" are distinct, so they must have distinct meanings.[12]

- "Recommendations" relate to a suggested course of action that will ultimately be accepted or rejected by the person being advised.[13]

- "Advice" has a broader meaning than "recommendations"[14] and includes setting out relevant considerations and options, and providing analysis and opinions, including expert opinions on matters of fact.[15] "Advice" can be an opinion about an existing set of circumstances and does not have to be a communication about future action.[16]

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applied s. 22(1) to withhold it I would have found s. 22(4)(e) applies to it and overrides the application of s. 22(1).

[9] Order F18-19, 2018 BCIPC 22 at para. 12, citing *John Doe v. Ontario (Finance)*, 2014 SCC 36 [*John Doe*] at para. 45.

[10] 2022 BCIPC 44 at para. 67. See also Order F23-29, 2023 BCIPC 33 at para. 27.

[11] Citing Order 02-38, 2002 CanLII 42472 (BC IPC) at para. 135.

[12] Citing *John Doe*, *supra* note 9 at para. 24.

[13] Citing *John Doe*, *ibid* at paras. 23-24.

[14] Citing *John Doe*, *ibid* at para. 24.

[15] Citing *John Doe*, *ibid* at paras. 26-27 and 46-47; *College of Physicians and Surgeons of British Columbia v. British Columbia (Information and Privacy Commissioner)*, 2001 BCSC 726 [*College*] at paras. 103 and 113.

[16] Citing *College*, *ibid* at para. 103.

- "Advice" also includes factual information "compiled and selected by an expert, using his or her expertise, judgment and skill for the purpose of providing explanations necessary to the deliberative process of a public body."[17] This is because the compilation of factual information and weighing of significance of matters of fact is an integral component of an expert's advice and informs the public body's decision-making process.

[20] I adopt these principles and add that a public body may not rely on s. 13(1) to withhold information that has already been publicly revealed, whether in the records at issue or elsewhere.[18]

[21] The first step in the s. 13 analysis is to determine whether the information in dispute would reveal advice or recommendations developed by or for a public body or a minister if disclosed. If it would, the next step is to determine whether ss. 13(2) or 13(3) applies. Section 13(2) lists certain classes of records and information that cannot be withheld under s. 13(1). Section 13(3) says that s. 13(1) does not apply to information in a record that has been in existence for 10 or more years.

[22] Here, neither party argues that any of the records containing information the public body has withheld under s. 13(1) has been in existence for 10 or more years and after reviewing those records I agree. Therefore, I find at the outset that s. 13(3) does not apply to any of the information in dispute under s. 13(1) and I will not consider s. 13(3) any further in this order.

Positions of the parties – "advice or recommendations"

[23] The public body relies on s. 13(1) to withhold information from 145 pages of the records.[19] The public body says that, in each case, releasing this information to the applicant would reveal advice or recommendations prepared for the public body regarding the investigations, its disciplinary procedures, or other related matters. Specifically, the public body says that it has withheld the following classes of information under s. 13(1):

- Advice and recommendations concerning labour relations matters and responses to questions posed by the union;
- Internal advice and recommendations concerning the investigations;
- Working papers, planning documents, and draft interview scripts;

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[17] Citing *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 2322 at para. 94; *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025 [*ICBC*] at paras. 52-53.

[18] Order F23-42, 2023 BCIPC 50 at para. 89, citing Order F20-32, 2020 BCIPC 38, Order F12-15, 2012 BCIPC 21, and Order F13-24, 2013 BCIPC 31.

[19] See pp. 6, 10-11, 14-16, 21, 31-39, 41-45, 47-51, 71-92, 107, 116-121, 123-125, 128, 131-132, 150, 177, 179, 181-182, 201, 205, 208, 221, 249-260, 262-276, 285-307, 310-311, 318-319, 333, 359-360, 363-364, 384-387, 389-390, 395, 400, 404-406, 408-410, and 412-413 of the records.

- Expert opinion, advice, and recommendations related to the investigator's findings; and
- Advice and recommendations concerning drafting communications and other documents.

[24] The public body submits that most of the information it withheld under s. 13(1) comprises materials developed by or at the direction of the public body's human resources staff and frames the roles and responsibilities of those staff members as "inherently advisory."

[25] Concerning the information the public body withheld from "working papers" and other draft documents under s. 13(1), the public body says that disclosing this information would clearly reveal protected advice and recommendations and it cites three prior OIPC orders it says support its position.[20] Regarding the draft planning notes and draft interview scripts, the public body says two of those same orders specifically establish that s. 13(1) protects such records from disclosure.[21]

[26] Further, the public body submits that even where the information it withheld is contained in a "completed draft communication" that information comprises the express recommendation of its human resources staff that the provided content ought to be included in the communication and that the communication ought to be sent or otherwise made. However, the public body does not clearly explain what it means by a "completed draft" and how this differs from a finalised record.

[27] The public body also says that much of the information it withheld under s. 13(1) is contained in complaints and allegations it received from its employees. The public body says that third parties provided all this information to "advise" the public body that it needed to take corrective action and "recommend" certain remedies for the circumstances complained about. On this basis, the public body submits that while this information was "not expressly framed as advice and recommendations [to the public body], … [it] is, by its very nature, advice and recommendations to which section 13 applies."[22]

[28] Finally, the public body submits that much of the content of the investigation 2 reports "comprises advice from the investigator to the public body." The public body says this is so because drafting the reports involved "the selection and presentation of evidence, which comprises advice as to the

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[20] Public body's initial submission at para. 85, citing Orders F06-16, 2006 CanLII 25576 at para. 50, F22-07, 2022 BCIPC 7 at para. 23, and F26-12, 2026 BCIPC 15 at para. 79.
[21] Public body's table of records at, for example, items 9 and 54 citing Orders F22-07, *ibid* and F26-12, *ibid*.
[22] See public body's table of records at, for example, items 3, 8, 11, 46-49, 56, 59, and 61, indicating where in the records the relevant information may be found.

relevance and reliability and the importance of such evidence" and that the investigator's findings "comprise the investigator's opinion about whether or not the public body should take" any action regarding the underlying complaints and allegations. The public body cites Order F23-71 in support of this submission.[23]

[29] The applicant questions the public body's argument that the substance of the complaints against the applicant is properly protected by s. 13(1). The applicant says any alleged advice or recommendations provided to the public body in the complaints was provided outside the regular scope of work of the third parties who provided it. Based on this, the applicant raises their concern that if the public body's position is accepted "[e]very employee could have an opinion [on anything] and call it advise [sic] or recommendations when it is convenient [to do so.]" The applicant also says it would be improper for the public body to withhold any information related to surveillance of the applicant by the public body under s. 13(1).

[30] In reply to the applicant, the public body says only that none of the applicant's submissions regarding s. 13(1) demonstrate the public body has applied that section inappropriately to any of the information it has withheld from the disputed records.

Analysis and conclusion – "advice or recommendations"

[31] For the reasons that follow, I find that some, but not all, of the information the public body has withheld under s. 13(1) would reveal "advice" or "recommendations" developed for the public body or by the public body's employees or representatives if disclosed.

<u>Information that would reveal advice or recommendations</u>

[32] For the following reasons, I find that the public body has established that the following information would reveal advice or recommendations if disclosed:

- Internal discussions among the public body's staff and representatives regarding:
  - how to respond to specific questions from the union. I make the same finding regarding draft responses to those same questions because they would reveal the advice prepared for the public body about its responses if disclosed.[24]
  - suggested changes to documents related to the investigations. I also find the substance of those changes disclose advice where revealing the changes would reveal the content of the underlying discussions.[25]

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[23] 2023 BCIPC 84 at para. 16 cited, for example, at item 11 of public body's table of records.
[24] This information is on pp. 10-11 (duplicated on 208 and 400), 14-16 (duplicated in part on 21, 205, 389-390, and 395), 201, 384-387, and 404-406 of the records.
[25] This information is on pp. 177 and 179 of the records.

    - how to manage complaints and prepare for and conduct the investigations.[26] This includes information in draft scripts for interviews with relevant individuals and follow-up notes drafted after the interviews were conducted.
- Professional opinions of the public body's staff regarding human resource matters, such as employee leaves, the appropriateness of workplace interactions, and potential dispute resolution actions and outcomes.[27] I find this information constitutes advice to the public body and, in some cases, it is also recommendations to the public body regarding the best course of action to take in light of specific circumstances.
- Draft communications regarding the complaints and the investigations which were circulated among the public body's human resources staff for input and comment.[28] I find the content of the drafts and what the staff said about them would reveal advice.
- Information in the investigation 2 reports which I find reveals how the investigator analyzed the evidence before them and reached certain conclusions which were later presented to the public body.[29] I find that releasing this information would allow the applicant to draw accurate inferences regarding the advice and recommendations provided by the investigator and how the public body deliberated regarding that advice and those recommendations.
- Communications between the investigator and the public body which I find would reveal the investigator's recommendations to the public body regarding how to proceed based on the investigator's findings in investigation 2.[30]

<u>Information that would not reveal advice or recommendations</u>

[33] For the following reasons, I find the public body has not established that disclosing the following information would reveal advice or recommendations:

- Information revealing only which public body representatives were communicating about certain issues at certain times. The public body does not explain how this information would reveal advice or recommendations and I do not see that it would.[31]
- Some content in the investigation 2 reports which I find simply recounts the fact finding and evidence gathering undertaken by the investigator

[26] This information is on pp. 47-51, 266, 275-276, 291-292, 306-307, 310-311, 318-319, and 359-360 of the records.
[27] This information is on pp. 182, 221, 305, 333, and 363-364 of the records.
[28] This information is on pp. 408-410 and 412-413 of the records.
[29] This information is on pp. 71, 73, 120-121, and 123-125 of the records.
[30] This information is on pp. 107 and 131-132 of the records.
[31] See, for example, p. 14 of the records.

and the content of that evidence.[32] I do not see that any of this information would reveal the investigator's advice or recommendations to the public body if disclosed.[33] I make the same finding regarding some of the headings used in the investigation 2 reports.[34]

- Other information in the investigation 2 reports which the investigator clearly relied on and considered in reaching their conclusions and formulating their recommendations to the public body, but I find that the substance of the relevant conclusions and recommendations has already been revealed to the applicant.[35]
- Suggested edits to a draft document which I find only reveal correction of minor typographical errors. These typographical corrections shed no light on the substance of the public body's discussions about the issues under consideration.[36]

[34] Two additional instances where the public body has applied s. 13(1) to withhold information bear more detailed consideration.

[35] First, the public body relies on s. 13(1) to withhold the body content of a draft letter regarding the applicant's appeal of the outcome of investigation 2. The public body says that the draft itself comprises a "recommendation" from its human resources staff regarding how to respond to the applicant's appeal.[37]

[36] However, s. 13(1) does not protect records simply because they are drafts and it is up to the public body seeking to rely on s. 13(1) to explain how revealing the specific information withheld from a draft would reveal advice or recommendations or otherwise allow inferences to be drawn regarding the public body's deliberative process.[38] I find the public body does not sufficiently explain how this would occur. I also do not see a final version of the draft appeal letter in the records before me, so I am unable to assess how or whether revealing the information in the draft would provide the applicant with additional insight into any advice or recommendations about the letter.

[37] Second, I am not convinced by what the public body says about the substance of unsolicited complaints it has received from third parties being advice and recommendations protected by s. 13(1). The purpose of s. 13(1) is to

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32 This information is on pp. 71-83 and 116-121 of the records.
33 In Order F23-71, *supra* note 23, which is relied on by the public body in withholding this information, the adjudicator, at paras. 17-20, drew a distinction between the *evaluation of evidence* by an investigator and the *presentation of evidence* in an impartial and objective manner which does not reveal analytical expertise or allow inferences to be drawn about the investigator's opinions or recommendations. The adjudicator concluded that the former class of information is protected by s. 13(1) and the latter class is not. I agree and have applied the same distinction here.
34 For example, on pp. 74-75 and 116-117 of the records.
35 This information is on pp. 83-92, 121, 123-125, and 128 of the records.
36 This information is on p. 181 of the records.
37 This information is on p. 150 of the records.
38 See, for example, Order F18-38, 2018 BCIPC 41 at para. 17.

protect a public body's internal deliberative process from undue public scrutiny, not to protect third party opinions about a public body, the substance of its responsibilities, or how it has or has not fulfilled those responsibilities. I find that the complaints information the public body has withheld under s. 13(1) would not, on its own, reveal anything substantive about the public body's internal deliberative process if released. I also find that the public body has not shown how the complaints information could be used to draw inferences regarding that process. As such, I find the public body has not established that s. 13(1) applies to the complaints information.[39]

[38] I make the same finding, for the same reasons, regarding strictly factual notes taken by the public body's representatives during internal interviews and discussions with third parties regarding the complaints.[40]

Conclusion "advice" or "recommendations"

[39] Based on the foregoing, I will now move on to consider whether any of the subsections of s. 13(2) apply to the information I found above would reveal advice or recommendations. The public body is not authorized to withhold any of the information that I found above would not reveal advice or recommendations under s. 13(1).[41]

Positions of the parties – s. 13(2)

[40] The public body says none of the information it has withheld under s. 13(1) comes within any of the categories set out in s. 13(2) and specifically says none of it is "factual material" within the meaning of s. 13(2)(a).

[41] The applicant implies that some of the information the public body has withheld under s. 13(1) may be strictly factual in nature. While the applicant does not frame their submission in these terms, I take them to be saying that s. 13(2)(a) may apply to that information.

[42] I do not see that any of the other subsections of s. 13(2) may apply to the information in dispute in this case, so I will only consider s. 13(2)(a) below.

Analysis and conclusion – s. 13(2)(a)

[43] Section 13(2)(a) says that a public body must not refuse to disclose "any factual material" under s. 13(1). "Factual material" is narrower than "factual information" and means background facts in isolation which are not intermingled

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[39] This information is on pp. 6, 31-39 (duplicated in part at 285-290), 41-45, 262-265, 267-268, and 307 of the records.
[40] This information is on pp. 249-260, 269-274, 276, and 293-304 of the records.
[41] The public body has also withheld some of this information under s. 22(1), so I will consider it again when I consider s. 22(1), below.

with advice or recommendations. Further, s. 13(2)(a) will not apply where disclosure of the facts would allow an accurate inference to be drawn about the advice or recommendations developed based on those facts.[42]

[44] Some of the information I found above constitutes advice or recommendations prepared by or for the public body contains statements of facts. However, I find, in each case, that disclosing these statements of fact would allow the applicant to draw accurate inferences regarding the advice and recommendations prepared for or generated by the public body based on those facts. Therefore, I find s. 13(2)(a) does not apply to any of the information I found above would reveal advice or recommendations within the meaning of s. 13(1).

Conclusion – s. 13(1)

[45] I found above that some, but not all, of the information the public body has withheld under s. 13(1), if disclosed, would reveal advice or recommendations developed by or for the public body. I also found that ss. 13(2) and 13(3) do not apply to any of that information. Finally, I do not see any indication before me that the public body has exercised its discretion to withhold advice or recommendations under s. 13(1) invalidly, in bad faith, or for an improper purpose. Taking all of this together, I find that the public body is authorized under s. 13(1) to withhold the information I found would reveal advice or recommendations.

Section 22(1) – unreasonable invasion of privacy

[46] Section 22(1) requires a public body to refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of the personal privacy of a third party. FIPPA defines a “third party” as anyone other than the access applicant or the public body who is subject to the access request.[43]

[47] The public body has withheld certain information on 257 pages of the records under s. 22(1).[44] Some of the information the public body has withheld under s. 22(1) is information that I found above the public body is authorized to withhold under s. 13(1), so I will not consider that same information again here.

[42] See *ICBC*, *supra* note 17 at paras. 52-53 and Order F18-41, 2018 BCIPC 44 at para. 34.
[43] FIPPA at schedule 1, definition of “third party.”
[44] This information is on pp. 1-7, 10, 13, 18, 24, 29, 31-51, 56-57, 62-64, 66-107, 109, 113-132, 134-138, 140-142, 144-146, 152-154, 177-179, 189-190, 196, 200, 203, 207-208, 210, 217-219, 221-223, 225, 227, 249-260, 262-307, 310-319, 321-327, 329, 333-344, 346-360, 363-364, 366-371, 374, 376, 379, 383, 387, 392, 398, 400, 402, 406, and 415-416 of the records.

Personal information

[48] Since s. 22(1) only applies to personal information, the first step in the analysis is to determine whether the information in dispute is personal information.

[49] Under schedule 1 of FIPPA,

> "personal information" means recorded information about an identifiable individual other than contact information; [and]
>
> "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[.]

[50] Therefore, "contact information" is not "personal information" under FIPPA. Whether information is contact information is context dependent.[45]

[51] The public body acknowledges that some of the information it has withheld is telephone numbers and email addresses but says that in each case this information was provided in the context of the investigations and the associated complaints, not to allow the relevant individuals to be contacted at their place of business for business purposes and therefore it is not "contact information."

[52] The applicant does not address whether any of the information in dispute is "contact information."

[53] Having reviewed the information the public body has withheld under s. 22(1) in detail I find that none of it was provided to the public body to allow any individuals to be contacted at their place of business. Therefore, I find none of the information in dispute under s. 22(1) is "contact information" for purposes of FIPPA.

[54] Turning to whether the information in dispute under s. 22(1) is "personal information," the public body says that all of it is. The public body says the majority of this information was collected from identifiable individuals acting as complainants, respondents, or witnesses in the course of the investigations. The public body says this information constitutes, among other things, the opinions, observations, or perceptions of those individuals or reveals their feelings, their conduct, or their personal experiences during their employment. Therefore, the public body says it is the personal information of the individuals who supplied it to the public body.[46]

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[45] Order F20-13, 2020 BCIPC 15 at para. 42.
[46] Citing, for example, Order F23-56, 2023 BCIPC 65 and Order F26-12, *supra* note 20.

[55] Further, the public body says that even where the withheld information does not directly identify an individual, for example where the information appears in a de-identified record like the investigation 2 reports, the information in question could be combined with other available sources of information to allow the applicant to discern the identities of the relevant individuals through what is known as the "mosaic effect."

[56] The public body also withheld a small amount of information which it says is "miscellaneous references" to its employees, particularly its human resources staff. The public body says this is the personal information of those employees because the information reveals the employees' off-duty activities, personal leaves from work, and elements of their employment history.

[57] The applicant says that some of the information the public body withheld under s. 22(1) is only the applicant's personal information and not the personal information of third parties. Specifically, the applicant says that any information collected by the public body's employees during surveillance of the applicant is not the personal information of the third parties who collected, documented, or reported that information. The applicant says this is so because the size of the public body's physical facilities is large and so is the public body's workforce and, therefore, if information about the alleged surveillance of the applicant were released the applicant would not be able to identify the specific third parties who conducted the surveillance and reported the information to the public body. The applicant does not make any further clear submissions regarding whether the information in dispute under s. 22(1) is "personal information."

[58] In reply, the public body says that the applicant is confused about the nature and content of the information in dispute under s. 22(1) and reiterates that it is not of the character or kind which the applicant seems to assume. Rather, it is primarily contained in "statements, complaints, and reports" made by the public body's employees and not in records relating to alleged surveillance of the applicant. The public body repeats its position that all the information it withheld under s. 22(1) is clearly "personal information" in line with how other orders have considered this issue in similar circumstances.

[59] Having read the parties' submissions and reviewed the disputed records I find that most, but not all, of the information the public body has withheld under s. 22(1) is "personal information." Specifically, I find that the public body has not established that the following information is "personal information":

- Headings and related miscellany in the investigation 2 reports which I find do not reveal information about any identifiable individuals.
- Some de-identified information in the investigation 2 reports which I find is too remote to allow re-identification of the third parties it relates to.

- The dates that certain interviews between the public body's representatives and its employees took place. The public body does not explain how this information could be used to identify the relevant employees and I do not see that it could.[47]

[60] Because this information is not personal information the public body is not authorized to withhold it under s. 22(1) and must release it to the applicant.[48]

[61] Turning to the remaining information in dispute under s. 22(1) I find that all of it is personal information for the following reasons.

[62] First, much of the information identifies third parties who provided information to the public body or otherwise were involved in the investigations and reveals what they said and did during the investigations and the events which preceded them. Therefore, I find this information clearly reveals something about those third parties and their experiences in the workplace. I find this is the case regarding,

- information that directly identifies the third parties such as their names or information that is directly attributable to them; and
- information which does not directly identify a third party but which I find the applicant could use to identify the relevant third parties if it were disclosed, such as
    - the number of employees against whom a specific complaint was filed and the number of witnesses who provided information during each investigation;
    - the departments in which certain employees who acted as complainants, respondents, or witnesses during the investigations worked at the time; and
    - the third parties' specific recollection of workplace events involving the applicant even where those recollections are provided in a de-identified format in the investigation 2 reports.

[63] In addition, some of the information is about named employees of the public body and reveals that they,

- requested accommodations from the public body such as changes in scope of work or work location;
- raised concerns about personal well-being with the public body; and
- provided assessments about other, named, employees and their likely responses to work-related changes to the public body;

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[47] This is distinct information from the date information I found above has already been released to the applicant and is no longer in dispute.
[48] I have highlighted the information I find is not personal information in the copy of the records provided to the public body alongside this order.

[64] Some of the disputed information also reveals the days and times that public body employees were away from work and their reasons for being away.

[65] Finally, I find that much of the disputed information is simultaneously the applicant's own personal information and the personal information of third parties. This is because a significant portion of that information is third party observations of the applicant or is contained in statements made to the public body where third parties provided their opinions about the applicant, the applicant's job performance, or the applicant's workplace conduct.[49]

[66] Further, some of the intermingled information is contained in statements made to the public body by the applicant and is clearly the applicant's personal information on that basis. It appears to me that some of the disputed information is also solely the applicant's own personal information that is not intermingled with the personal information of any third parties and I will address this in more detail below when I consider s. 22(2) and "all relevant circumstances."

[67] I will now move on to consider whether releasing any of the information I found above is "personal information" would represent an unreasonable invasion of the personal privacy of any third parties.

Section 22(4) – not an unreasonable invasion

[68] Section 22(4) lists circumstances where disclosing personal information is not an unreasonable invasion of third-party personal privacy. If s. 22(4) applies to personal information, a public body cannot withhold that information under s. 22(1).

[69] The public body says that none of the circumstances in s. 22(4) applies and, specifically, that prior orders have found the sort of personal information in dispute here does not fall within the scope of s. 22(4)(e). The applicant does not clearly address s. 22(4) in their submissions.

[70] I do not see that any of the other subsections of s. 22(4) could conceivably apply to the personal information in dispute so I will only consider s. 22(4)(e) here.

[71] Past orders have found that s. 22(4)(e) applies to information about the positions, functions, or remuneration of public body employees and to information

[49] A person's opinion is their personal information. In addition, a person's opinion about another person is, depending on the substance of the opinion, the personal information of both the opinion holder and the subject of the opinion: see, for example, Order F24-41, 2024 BCIPC 49 at para. 47.

revealing what those employees did or said in the normal course of discharging their job duties.[50]

[72] However, past orders have also found that s. 22(4)(e) does not apply to information that reveals "details about the nature of [third parties'] participation in [workplace investigations] and subjective information about their opinions, feelings, and personal experiences."[51] Here, I find all the information which could conceivably come within the ambit of s. 22(4)(e) would reveal the kinds of information just referenced if released to the applicant. Therefore, I find s. 22(4)(e) does not apply to any of the personal information in dispute.

Section 22(3) – presumed unreasonable invasion

[73] Section 22(3) lists circumstances where disclosing personal information is presumed to be an unreasonable invasion of third-party personal privacy.

[74] The public body says that some of the personal information in dispute is third party comments about their physical, emotional, or mental health related to experiences while at work and that this information is subject to the presumption under s. 22(3)(a) which applies to, among other things, information revealing a third party's medical or psychological history or condition.

[75] The public body also says that most of the personal information in dispute is subject to the presumption set out in s. 22(3)(d) which applies to information about the employment, occupational, and educational histories of third parties. The public body says this is so because that information reveals that the third parties participated in workplace investigations and the conditions under which they carried out their employment.

[76] The applicant does not clearly address s. 22(3) in their submission.

[77] I do not see that any of the other subsections of s. 22(3) beyond those identified by the public body may apply in this case so I will only consider ss. 22(3)(a) and (d), below.

Section 22(3)(a) – medical and psychological history and condition

[78] Having reviewed the personal information in dispute I find that a small amount of it reveals the psychological and medical histories of certain of the public body's employees.

[79] Specifically, in some of the statements provided to the public body at the outset of and during the investigations, specific third parties describe the

[50] Order 01-53, 2001 CanLII 21607 (BCIPC) at para. 40.
[51] Order F24-81, 2024 BCIPC 93 at para. 66.

psychological and emotional impact that certain workplace events underlying the investigations had on them. I find this information is about those third parties' psychological histories. I also find that some of the third parties discuss or describe their personal medical circumstances in these same records.

[80] This same information is repeated in some of the handwritten interview notes which were created by the public body's human resources staff during the investigations or in summary documents prepared by the investigator or those same human resources staff.

[81] It is clear to me that all of this information is subject to the presumption under s. 22(3)(a).

Section 22(3)(d) – employment history

[82] As noted above, s. 22(3)(d) says that disclosing information related to a third party's employment, occupational or educational history is presumed to be an unreasonable invasion of that third party's personal privacy.

[83] Many past orders have considered whether and how s. 22(3)(d) may apply to information collected during workplace investigations. Recently, in Order F26-32, the adjudicator summarized some of the relevant principles, which I adopt.[52] Those principles are as follows:

- Employment history includes descriptive or qualitative information about a third party who is being investigated as part of a workplace matter or dispute, including a description of the third party's workplace behaviour or actions.
- Employment history does not include a third party's description, comments or opinions provided as part of a workplace investigation where the third party was not the subject of the investigation, such as descriptive information about what a third party observed, said or did regarding workplace interactions with the people who were the subject of the investigation.
- Employment history includes information in third party witness statements that reveals the effect that the matter under investigation has had on a third party's work performance or that reveals details about a third party's work history.

[52] 2026 BCIPC 40 at para. 74 and the orders cites therein. I acknowledge that Order F26-32 was issued after the public body made their initial submission in this inquiry. However, in the part of that order which I rely on here, I find the adjudicator merely summarized the conclusions in prior orders that were available to the public body to review and consider at the time it was planning and drafting its submissions.

[84] In addition, information revealing that an individual was the subject of a workplace complaint made by a co-worker or, alternatively, revealing that an individual made a workplace complaint against a co-worker is also “employment history” information that is covered by s. 22(3)(d).[53]

[85] In line with these principles, I find that the vast majority of the personal information in dispute is about the employment histories of third parties because it either identifies the complainants who brought the facts underpinning investigation 1 to the public body’s attention or identifies who the investigation 2 complaints were made against.[54]

[86] Some of the personal information in dispute reveals the identities of third parties who acted only as “witnesses” during the investigations and what they told the public body and the investigator. As noted above, the identities of witnesses and the contents of their statements provided in the context of a workplace investigation are not automatically considered the witnesses’ “employment history” under s. 22(3)(d).

[87] However, as also noted above, witness statements containing qualitative or descriptive information about third parties who are being investigated in response to a workplace complaint have been held to constitute the employment history of the third parties under investigation.[55] I agree with this interpretation.

[88] Based on this, I find that what the witnesses who participated in investigation 2 said to the public body and the investigator is the “employment history” of the third parties who were being investigated. I make this finding based on the qualitative and descriptive character of the information provided by the relevant witnesses and the fact that much of that information would reveal the identities of the third parties who were the subject of the complaints. I make the same finding regarding the identities of the witnesses because, in the specific circumstances of this case, I find it more likely than not that the applicant could use this information to identify the third parties who were the subject of the complaints.

[89] However, I make a different finding regarding the witnesses who participated in investigation 1 because the applicant was the subject of the complaints that led to that investigation. Therefore, I find s. 22(3)(d) does not apply to the identities of the witnesses who participated in investigation 1 or to

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[53] See also Order F24-81, *supra* note 51 at para. 72 and the orders cited therein.
[54] There is one instance in the records where a party who does not appear to have otherwise been involved in the investigations brings information about the applicant’s workplace conduct to the public body’s attention. I find that the relevant communications from that third party are in the nature of an independent workplace complaint and that the identity of that person and the qualitative aspects of what they said therefore also fall within s. 22(3)(d).
[55] See Order F23-74, 2023 BCIPC 89 at para. 55 and the orders cited therein.

what those witnesses told the public body regarding the applicant or the applicant's workplace conduct.

[90] Notwithstanding this, I find the witnesses in investigation 1 did provide some information that constitutes the employment history of third parties. This is because the information identifies those third parties as involved in the matters underlying the investigations and describes their actions and reactions during workplace conflicts and related events outside the normal scope of their employment duties.

[91] Finally, there is some personal information that reveals aspects of third party employment history such as the dates when certain individuals started in their positions or when their probationary periods ended or when other formal changes in their employment status occurred. I find this information is clearly covered by s. 22(3)(d).

[92] Taking all of this together, I find that much, but not all of the personal information in dispute is the "employment history" of third parties and therefore subject to the presumption under s. 22(3)(d).

Section 22(2) – All relevant circumstances

[93] Section 22(2) says that when a public body is deciding whether disclosing personal information would be an unreasonable invasion of third-party personal privacy, it must consider all relevant circumstances, including those listed in s. 22(2). Some circumstances weigh in favour of disclosure and some weigh against. Circumstances favouring disclosure may rebut s. 22(3) presumptions.

[94] The public body says that ss. 22(2)(e) and (f) as well as the sensitivity of some of the personal information in dispute each apply in this case and weigh against disclosing certain information. The public body also says that the fact the applicant may have prior knowledge of some of the personal information in dispute is not a relevant circumstance favouring disclosure here because disclosure under FIPPA ought to be assessed as "disclosure to the world," not disclosure to a particular access applicant. Further, that the applicant is subject to employment-related requirements to keep the relevant personal information confidential and disclosure under FIPPA would undercut the force of those requirements or negate them entirely.

[95] The applicant says that s. 22(2)(c) and the fact that much of the personal information in dispute is their own personal information each weigh in favour of releasing the personal information in dispute to them.

[96] I do not see that any relevant circumstances beyond those raised by the parties may apply in this case, so I will consider all and only the circumstances just discussed, below.

Section 22(2)(c) – Fair determination of an applicant's rights

[97] Section 22(2)(c) applies to personal information that is relevant to a fair determination of an applicant's rights. Section 22(2)(c) applies where:

1. The right in question is a legal right drawn from the common law or statute, as opposed to a non-legal right based only on moral or ethical grounds;
2. The right is related to a proceeding which is either underway or is contemplated, not a proceeding that has already been completed;
3. The personal information sought by the applicant has some bearing on, or significance for, determination of the right in question; and
4. The personal information is necessary to prepare for the proceeding or to ensure a fair hearing.[56]

[98] In order for s. 22(2)(c) to weigh in favour of disclosing personal information, an applicant must meet every step of the test set out above.

[99] The applicant alleges that the investigations were tainted by procedural fairness concerns and, on this basis, makes a vague submission that they intend to use the personal information in dispute to remedy the alleged procedural issues and seek redress. However, I find the applicant does not adequately identify the relevant legal right they seek to enforce. Rather, the applicant appears to me to be raising the kind of general concerns regarding fairness which are routinely held to be insufficient to meet the first step in the test set out above.

[100] Moreover, the applicant does not identify any specific proceeding they are contemplating bringing against the public body or any other related party regarding the matters underlying the disputed personal information. I also do not have evidence before me establishing that such a proceeding is already underway. Therefore, even if I am wrong about the force or substance of the "right" asserted by the applicant, I find they have nonetheless not met the second stage of the s. 22(2)(c) test.

[101] Given my conclusions just above, I find s. 22(2)(c) does not weigh in favour of disclosing any of the personal information in dispute to the applicant.

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[56] Order F23-71, *supra* note 23 at para. 69, citing Order 01-07, 2001 CanLII 21561 (BC IPC).

Section 22(2)(e) – Exposure to unfair harm

[102] Section 22(2)(e) asks whether disclosing the personal information would expose a third party unfairly to financial or other harm. If it would, this weighs against disclosing the information.

[103] The public body says that if personal information revealing who participated in the investigations and what they told the investigator and the public body is released, this raises a risk that the applicant will take retaliatory action against those third parties. The public body says the applicant has acted in a retaliatory manner toward some of their co-workers in the past and that the prospect of future retaliation would create stress and anxiety for the relevant third parties if they are identified to the applicant. The public body submits that this constitutes mental harm under s. 22(2)(e).

[104] The applicant does not address what the public body says about s. 22(2)(e) in their submission.

[105] For purposes of s. 22(2)(e), "mental harm" means serious mental distress or anguish or harassment. Embarrassment, upset, or negative reactions, without more, do not rise to the required level.[57]

[106] Here, I accept that the personal information in dispute identifies third parties who provided information about the applicant to the investigator and the public body. I also accept that the public body's evidence and the contents of the disputed records establish that the applicant has previously engaged in retaliatory conduct toward specific coworkers for raising issues regarding the applicant with the public body and has been disciplined for that conduct. However, I find that the incident where the applicant retaliated against a coworker occurred several years ago and that the public body has made clear to the applicant that such conduct is not acceptable and could lead to further disciplinary action if repeated. I also find that as part of the discipline for their prior retaliatory conduct the applicant was required to attend workplace training regarding "Respect in the Work Place." The public body also does not provide any evidence showing that there have been repeat incidents or similar conduct by the applicant in the time since they were disciplined.

[107] Taking all of this together, I accept that if the applicant receives the personal information in dispute this could induce some amount of stress and anxiety for some of the relevant third parties. Notwithstanding this, I find the public body's submissions and evidence do not establish that releasing information that identifies a third party as a participant in the investigations would automatically give rise to the kind of serious mental distress or concerns about serious harassment that engage s. 22(2)(e).

[57] See Order F26-15, 2026 BCIPC 19 at para. 80.

[108] I do find, however, that s. 22(2)(e) weighs against disclosing specific information which reveals sensitive aspects of third parties' medical and psychological conditions or details about difficult personal circumstances experienced by those third parties. This is the kind of information that it seems to me a reasonable person would be seriously distressed over having publicly disclosed or placed into the hands of a potential harasser.

[109] Therefore, I find s. 22(2)(e) weighs against disclosing a small amount of the personal information in dispute which is related to third party medical and psychological condition and difficult personal circumstances. It does not, however, weigh against disclosure of any of the other personal information.

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

[110] Section 22(2)(f) asks whether the personal information in dispute was supplied in confidence. If it was, this weighs against disclosing that information. For s. 22(2)(f) to apply, the third party who supplied the personal information to the public body must have had an objectively reasonable expectation of confidentiality at the time the information was supplied.

[111] The public body says that the investigations took place under the Respectful Workplace Policy which expressly provides that any information supplied to the public body in relation to workplace complaint investigations will be held in confidence. Moreover, the public body points out that the investigation 2 reports are marked as confidential and that all participants in investigation 2 were advised by the investigator that investigation 2 was being conducted on a confidential basis.

[112] The applicant says that the Respectful Workplace Policy appends a standard form for making workplace complaints and that this form says the identities of complainants and general information regarding the substance of complaints will be provided to complaint respondents. Therefore, the applicant submits that s. 22(2)(f) does not apply to personal information supplied by complainants during investigation 1 because the applicant was the respondent in that investigation and the complainants should have known their information would be disclosed to the applicant. The applicant makes related submissions that general fairness also requires that complaint particulars be provided to investigation respondents so those respondents can properly defend themselves against complaints.

[113] In reply, the public body says the applicant was provided with all relevant information under the Respectful Workplace Policy throughout the course of the investigations and that nothing the applicant says undercuts its application of s. 22(2)(f) to the personal information in dispute.

[114] I accept that the Respectful Workplace Policy indicates that workplace compliant investigations undertaken by the public body are intended to be confidential. I also accept that the investigator advised the respondents and witnesses in investigation 2 that their participation and the information they provided would be held in confidence and marked the investigation 2 reports as "confidential" to reflect this. On this basis, I find that all of the third party personal information in dispute that was supplied to the public body within the context of investigation 2 was supplied with a reasonable expectation that it would be held in confidence and therefore s. 22(2)(f) weighs in favour of withholding that information.

[115] While I can see that the standard complaints form referenced by the applicant says that some complaint information cannot be held in confidence from complaint respondents, the material before me shows that the complainants in investigation 1 did not actually use that form to make their complaints. Rather, those complainants raised their concerns by other methods, primarily email. Therefore, I am not persuaded that the wording on the standard complaints form has probative value regarding whether the investigation 1 complainants did or did not supply the personal information in their complaints in confidence.

[116] Further, the public body has provided evidence that workplace investigations it conducts into issues such as bullying and harassment are always governed by the Respectful Workplace Policy and expected to be confidential and that this is communicated to its employees.[58] Therefore, I find it reasonable to accept that the complainants in investigation 1 would have expected the information they supplied to the public body would be held in confidence notwithstanding it was provided by email and not using the complaints form appended to the Respectful Workplace Policy. I make the same finding, based on the same evidence, regarding the witnesses who provided information to the public body during investigation 1.

[117] I have also considered the applicant's fairness-related submissions regarding the need for disclosure to them as the respondent in investigation 1. I agree that disclosure of the complaint particulars and, potentially, the identities of the complainants to the applicant as the investigation 1 respondent may have been reasonably expected to occur during the course of that investigation. However, I do not see that this undercuts the reasonable expectation of confidentiality on the part of the investigation 1 complainants for purposes of s. 22(2)(f).

[118] Simply put, I accept that someone who supplies a confidential complaint to their employer may expect some of the information they provide to be disclosed

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[58] Affidavit #1 of Executive Assistant to the public body's Vice President of Finance and CFO at paras. 6-7.

within the scope of structured workplace processes aimed at resolving the complaint. But, I do not see that this implies the same person would reasonably expect their confidential personal information to be shared during an entirely disconnected process like a FIPPA access request, regardless of the identity of the access applicant or that applicant's relationship to the complaint.

[119] Taking all of the above together, I find that s. 22(2)(f) weighs in favour of withholding all of the personal information supplied to the public body by third parties during the investigations.

Sensitivity

[120] Prior orders have held that where personal information is sensitive this weighs against disclosing that information. On the other hand, where personal information is clearly "innocuous" or non-sensitive this can weigh in favour of disclosing it to an applicant.

[121] The public body implies that all information related to workplace investigations is inherently sensitive and that this weighs against disclosure. The public body also ties its submission to concerns that fear of retaliation could lead to a chilling effect which would see future potential complainants feeling less emboldened to bring their concerns to light if the personal information in dispute is released.

[122] The applicant does not address the sensitivity of the personal information in dispute.

[123] I do not agree with the public body that any time personal information is collected during a workplace investigation that information is inherently sensitive. It is not difficult to imagine entirely innocuous or neutral personal information being incidentally collected during an investigative process. Further, without more robust evidence and argument I do not find the public body's speculative concerns about a chilling effect on future complaints to rise to the level of a "relevant circumstance" under s. 22(2) in this case.

[124] However, having reviewed the personal information in dispute I find that some of it reveals the personal mental and physical health struggles of some third parties during the course of their work or occurring outside work but having an impact on their employment. I find that some of the personal information in dispute also reveals third parties' personal feelings and psychological states regarding difficult aspects of their broader lives. I find this information is clearly sensitive and this weighs against disclosing it.

[125] I also find that a small amount of the personal information in dispute reveals only that specific identified public body employees were away from work

at a given time and their anticipated return date. Other information only reveals a temporary schedule worked by a specific, identified, employee. Given the passage of time since the temporary schedule lapsed, I find this information is clearly non-sensitive. I make the same finding regarding an identification photograph that a specific, identified, public body employee used on a workplace instant messaging platform. I find all the information discussed in this paragraph is “innocuous” and that, in line with prior orders, this weighs strongly in favour of disclosing it.

[126] I find that “sensitivity” is not a relevant circumstance weighing for or against disclosing the other information in dispute.

<u>Applicant’s prior knowledge</u>

[127] Where an applicant already knows some of the personal information in dispute this can weigh in favour of disclosing it to them.

[128] The parties agree that the applicant already knows much of the personal information in dispute because they were directly involved in many of the events giving rise to the complaints and investigations and participated in the investigations either as a respondent or complainant. However, as noted above, the public body says this does not weigh in favour of releasing the personal information in dispute to the applicant because disclosure under FIPPA is “disclosure to the world” and the applicant is bound by workplace confidentiality requirements regarding the uses to which they may put any relevant personal information which they already know.

[129] It seems to me that all the personal information in dispute which the applicant may already know was collected and organized during the investigations. Given this, for the reasons that follow, I agree with the public body that the applicant’s prior knowledge does not weigh in favour of disclosure in this case.

[130] In the first place, regarding the information the applicant already knows about investigation 2, I can see that the forms the applicant used to make the complaints underlying that investigation clearly indicate that the applicant was required to hold the relevant information in confidence and only disclose it on a “need to know” basis. Therefore, I find the applicant voluntarily took on confidentiality requirements regarding information related to investigation 2. As such, I find the applicant’s knowledge about events related to investigation 2 is substantively different from the kind of unencumbered access to information about those events that would be occasioned if the relevant personal information were disclosed to “the world” under FIPPA.

[131] Regarding the personal information the applicant may already know related to investigation 1, I find that there is a relevant difference between having a general understanding that certain events occurred in the presence of others and being granted concrete, documentary knowledge regarding third parties' feelings and actions stemming from their proximity to those events. Moreover, I find that as the respondent in investigation 1, the applicant was advised that they were expected to keep any information disclosed to them in the course of that investigation confidential. Taking this together, I find the applicant's prior knowledge of events relating to investigation 1 also does not weigh in favour of disclosing any of the personal information in dispute to the applicant.

[132] Additionally, there are a few places where the public body has been inconsistent in its severing and has withheld personal information in some records but released the same information in duplicates of those records appearing elsewhere. However, I find the information the public body has inconsistently severed is subject to the presumption under s. 22(3)(d) and that the fact the public body has already released this information to the applicant is not a factor that weighs in favour of disclosing it again where it appears elsewhere in the records.

Applicant's own personal information

[133] Where the personal information in dispute is an applicant's own personal information, this can weigh heavily in favour of disclosing that information to them. However, where the applicant's personal information is interwoven with the personal information of third parties this factor carries less weight.[59]

[134] Here, some of the information in dispute is clearly about the applicant because it is contained in third party statements detailing the applicant's conduct, assessing the applicant's job performance, or providing an opinion about the applicant. However, in these cases I find the relevant information is interwoven with the personal information of the third parties who supplied it to the public body. Therefore, while the fact that this information is the applicant's own personal information weighs in favour of disclosing that information to the applicant, the weight I give to this factor is tempered here. I make the same finding regarding identifying information about third parties that was supplied to the public body by the applicant.

[135] But, there are four instances where I find that the personal information in dispute is only the applicant's own personal information. I find this is the case regarding,

[59] Order F14-47, 2014 BCIPC 51 at para. 36.

- Some information about the applicant's conduct that was relayed to the public body by third parties but which I find, in the context in which it appears, does not reveal anything about those third parties;
- A small amount of information on the complaint forms that gave rise to investigation 2 which I find is only about the applicant and does not reveal anything about any third parties;
- Pseudonymized or otherwise de-identified information contained in general statements about workplace conditions provided to the public body by the applicant. The public body does not explain how these statements reveal anything about identifiable third parties and I do not see how they could; and,
- The location where certain information about the applicant was collected by a public body employee and reported to the public body. The public body says that this information could be used to identify the employee who collected and provided it via the "mosaic effect" but does not explain this submission in any greater detail and, having reviewed the information, I do not see that this information is "about" anyone other than the applicant.

[136] I find the fact that the above-listed information is only the applicant's own personal information weighs strongly in favour of releasing it to the applicant.

Conclusion – s. 22(1)

[137] I have found above that most, but not all, of the information the public body has withheld under s. 22(1) is "personal information." I have also found that none of the subsections of s. 22(4) applies to any of that information.

[138] Turning to s. 22(3), I have found that some of the personal information in dispute is subject to the presumption under s. 22(3)(a) because it reveals the medical or psychological condition of third parties. I have found that the great majority of the personal information in dispute is subject to the presumption under s. 22(3)(d) because it relates to third party employment history.

[139] Turning to s. 22(2) and all the relevant circumstances, I have found that ss. 22(2)(e) and (f) and the sensitivity of some of the personal information in dispute weigh against disclosing some of that information. I have also found that some of the personal information in dispute is also the applicant's own personal information, and that this weighs moderately in favour of disclosure where the applicant's personal information is interwoven with third party personal information but weighs strongly in favour of disclosure for information that is only the applicant's own personal information. Finally, I have found that some of the personal information in dispute is "innocuous" or clearly non-sensitive and that this also weighs strongly in favour of disclosing that information.

[140] Taking all of this together and weighing it out, I find that the applicant has not established that the presumptions under ss. 22(3)(a) and (d) are rebutted in this case. Therefore, the public body is required to withhold all of the personal information to which I have found ss. 22(3)(a) or (d) applies.

[141] Turning to the personal information I have found is not subject to any presumption under s. 22(3), I find that it would not be an unreasonable invasion of any third party's personal privacy to disclose information which is innocuous or non-sensitive or is only the applicant's own personal information that is not intermingled with the personal information of any third parties. I make the same finding regarding,

- Some information that is contained in factual statements made by third party witnesses in investigation 1 concerning the witnesses' interactions with the applicant and the identities of those witnesses, notwithstanding this information was supplied to the public body in confidence; and
- Some information about the investigation 1 witnesses where it appears in statements the applicant made to the public body during that investigation.

[142] Section 22(1) does not apply to the information discussed in the preceding paragraph.

Section 22(5) – summary of information

[143] Section 22(5) provides that where a public body refuses to disclose information supplied in confidence about an applicant, the public body must give the applicant a summary of the information, unless the summary cannot be prepared without disclosing the identity of the third party who supplied the personal information. Neither party made submissions on the application of s. 22(5).

[144] In this case, I have considered whether any of the applicant's personal information I found above was supplied in confidence to the public body during the investigations could be summarized by the public body without enabling the applicant to discern the identity of the third party who provided the information. Given the content of the information and the applicant's general pre-existing knowledge about the circumstances regarding the complaints and the investigations, I think it would be relatively easy for the applicant to deduce who supplied this information. Therefore, I find that the public body is not required to provide a summary of any of the applicant's personal information in dispute under s. 22(5).

CONCLUSION

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

1. Subject to Item 3, below, I confirm the public body's decision that it is authorized to withhold the information in dispute under s. 13(1).

2. Subject to Item 3, below, I confirm the public body's decision that it is required to withhold the information in dispute under s. 22(1).

3. The public body is not authorized or required by ss. 13(1) or 22(1) to refuse to give the applicant access to the information I have highlighted in green in the copy of the records provided to the public body alongside this order.[60] The public body must give the applicant access to all of the information highlighted in green.

4. The public body must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the information described at item 3 above.

[146] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by **September 14, 2026**.

July 30, 2026

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

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[60] The highlighted information is on pp. 2-5, 14, 31, 71, 74-75, 77-78, 80-82, 96, 113, 116-119, 121-124, 128, 135, 144, 150, 152, 181, 196, 221, 254, 269, 277, 293, 314, 341-343, 346-352, 356-359, 366-369, 374, 376, and 383 of the records.