Order F08-10

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 69 (QUALICUM)

Celia Francis, Senior Adjudicator

May 21, 2008

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Summary: Parents requested access to personal information about themselves and their minor child. School District disclosed most of the requested records, withholding some information under ss. 21 and 22. School District ordered to disclose a few phrases of personal information of one applicant as s. 22 does not apply to it. Section 21 is found not to apply to five pages of records and School District ordered to disclose portions from these pages which are the applicants' personal information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 22(2)(c), (e), (f), 22(3)(d), ss. 21(1)(a)(ii), (b), (c)(ii) & (c)(iv).

Authorities Considered: B.C.: Decision F08-02, [2008] B.C.I.P.C.D. No. 4; Order 01-53, [2001] B.C.I.P.C.D. No. 56; Order 02-56, [2002] B.C.I.P.C.D. No. 58; Order No. 330-1999, [1999] B.C.I.P.C.D. No. 43; Order 03-02, [2003] B.C.I.P.C.D. No. 2; Order 04-08, [2004] B.C.I.P.C.D. No. 8; Order F05-01, [2005] B.C.I.P.C.D. No. 1; Order F03-03, [2003] B.C.I.P.C.D. No. 1; Order 03-04, [2003] B.C.I.P.C.D. No. 4; Order 03-33, [2003] B.C.I.P.C.D. No. 33; Order F08-09, [2008] B.C.I.P.C.D. No. 15; Order F08-03, [2008] B.C.I.P.C.D. No. 6, Order F05-18, [2005] B.C.I.P.C.D. No. 26, Order F05-02, [2005] B.C.I.P.C.D. No. 2; Order 03-34, [2003] B.C.I.P.C.D. No. 34; Order 00-18, [2000] B.C.I.P.C.D. No. 21; Order 00-11, [2000] B.C.I.P.C.D. No. 13; Order F05-29, [2005] B.C.I.P.C.D. No. 39; Order 03-05, [2003] B.C.I.P.C.D. No. 5; Order 04-04, [2004] B.C.I.P.C.D. No. 4. **Ont.:** Order PO-2626, [2007] O.I.P.C. No. 182; Order P-653, [1994] O.I.P.C. No. 108. **Alta.:** Order 2000-003, [2000] A.I.P.C.D. No. 33.

1.0 INTRODUCTION

[1] This order arises out of the applicants' request for review of a decision by The Board of Education of School District No. 69 (Qualicum) ("School District") to

deny access under ss. 21 and 22 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA") to certain information and records. The matter did not settle in mediation and so a written inquiry was held under Part 5 of FIPPA.

[2] This Office gave notice of the inquiry to the applicants, the School District, the Mount Arrowsmith Teachers Association ("MATA") and the British Columbia Teachers Federation ("BCTF") as third parties, certain individuals as third parties and the British Columbia Public School Employers' Association ("BCPSEA") as an appropriate person. All made submissions except the individual third parties.

2.0 ISSUES

[3] The issues before me in this case are:

1. Whether the School District is required by ss. 21(1)(a)(ii), (b), (c)(ii) and (c)(iv) to refuse access to information.

2. Whether the School District is required by s. 22(3)(d) to refuse access to information.

[4] Under s. 57(1) of FIPPA, the School District has the burden of proof regarding the denial of access while, under s. 57(2), the applicants have the burden of proof regarding third-party personal information.

3.0 DISCUSSION

[5] **3.1 Background**—The applicants' child attends a school within the School District. The applicants requested access to records about themselves and their child from the School District. In the course of processing the request, the School District notified the MATA under s. 23 of FIPPA and requested MATA's representations regarding certain "grievance records" which were responsive to the request and which the School District said could affect MATA's interests.

[6] Legal counsel, responding on behalf of both the BCTF and the MATA, the BCTF's local association (collectively, the "unions"), objected to the disclosure of the "grievance records" on the grounds that ss. 21(1)(a)(ii), (b), (c)(ii) and (c)(iv) of FIPPA required the School District to refuse access. The School District notified the unions and the applicant under s. 24 of FIPPA that it intended to give the applicants partial access to the "grievance records". The School District then disclosed to the applicants severed copies of the "grievance records", portions of which it withheld under s. 21. It also gave the applicants copies of other responsive records, from which it severed information under s. 22(3)(d) of FIPPA.

[7] The applicants requested a review of the School District's decision to deny access. Mediation of the request for review led to the disclosure of some more information. The School District also clarified the paragraphs of s. 21 that it was applying.[1] With respect to the information withheld under s. 22, the applicants clarified that they wanted access to statements that other individuals had made related to them, their child and their child's school program, including those individuals' names. They said, however, that they did not want access to the home addresses, home telephone numbers, dates of birth or social insurance numbers of School District employees. Mediation was not otherwise successful and so the matter proceeded to inquiry.

[8] **3.2 Preliminary Issue**—The applicants expressed concerns about the amount of time that passed before the School District responded to their request and listed a number of records they said the School District had not disclosed. They also said that it was not clear from the severed records which exceptions the School District had applied.[2]

[9] The School District objected to the applicants' attempt to introduce these issues at the inquiry stage, pointing out that this Office's inquiry guidance states that initial submissions must deal only with the issues set out in the notice of inquiry. The notice for this inquiry listed only ss. 21 and 22, the School District argued, and issues respecting search and the duty to assist under s. 6(1)[3] of FIPPA were not listed. In any case, regarding the records the applicants said were missing, the School District said that either the applicants have already received copies, the records were not responsive to the request or the records do not exist. Moreover, in the School District's view, it is clear from the applicants' submissions that they know that the School District applied s. 22(3)(d) to some records and s. 21(1) to others.[4]

[10] In Decision F08-02,[5] I dealt with a similar situation and rejected the applicant's attempt to introduce new issues at the inquiry stage, including s. 6(1) matters. For reasons similar to those I discussed in that decision,[6] I agree with the School District that it is not appropriate in this case for the applicants to raise s. 6(1) issues at the inquiry stage and I decline to consider them here.

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[1] The portfolio officer's fact report that accompanied the notice for this inquiry stated that the School District clarified that it was applying s. 21(1)(a)(ii), (b) and (c)(iv). However, the School District's submission argues the applicability of ss. 21(1)(a)(ii), (b) and (c)(ii), not (c)(iv).

[2] Pages 11-14, initial submission; pp. 1-2, reply submission.

[3] This section requires public bodies to make reasonable efforts to assist applicants and to respond without delay openly, accurately and completely.

[4] Paras. 1-7, reply. Regarding the last issue, I note that the severed copies of the records that the School District provided to me for this inquiry—and which appear to be copies of those the School District disclosed to the applicants (see para. 1, the School District's initial submission)—are annotated with the exceptions applied.

[5] [2008] B.C.I.P.C.D. No. 4.

[6] See paras. 27-39.

[11] **3.3 Third-Party Privacy**—Numerous orders have considered the application of s. 22.[7] I apply here without repeating them the principles set out in those orders. The relevant parts of s. 22 read as follows:

> **Disclosure harmful to personal privacy**
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> 22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.
>
> (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether …
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> (c) the personal information is relevant to a fair determination of the applicant's rights, …
>
> (e) the third party will be exposed unfairly to financial or other harm,
>
> (f) the personal information has been supplied in confidence, …
>
> (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if …
>
> (d) the personal information relates to employment, occupational or educational history, …

[12] The School District made submissions on s. 22 on behalf of itself only, saying the BCPSEA took no position on this issue. The School District said it had located 262 responsive records and, of those, it disclosed 199 in full. Setting aside records where it withheld information of the kind the applicants do not want, the School District said that only 16 records are in issue under s. 22.[8]

Parties' submissions

[13] The School District acknowledged that the applicants are entitled to their own personal information and that of their minor child. It said that, following the s. 22 analysis set out in previous orders, it first identified the personal information of the applicants and others. It also concluded that s. 22(4) did not apply to any of the third-party personal information.[9] The School District said it then severed the records so as to disclose to the applicants their own personal information and that of their child, while withholding under s. 22(3)(d) of FIPPA the personal

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[7] See, for example, Order 01-53, [2001] B.C.I.P.C.D. No. 56, and Order 02-56, [2002] B.C.I.P.C.D. No. 58.

[8] Paras. 1-4, initial submission.

[9] Section 22(4) lists a number of categories of personal information disclosure of which is not an unreasonable invasion of privacy. I agree with the School District that s. 22(4) does not apply to the withheld information.

information of third parties, such as the third parties' personal views and opinions about their own feelings and reactions or about those of other third-party individuals and the third parties' observations or accounts of their own or other third-party individuals.[10]

[14] The School District said that, in severing the records, it took into account the following factors:

- the applicants' knowledge and awareness of their complaints and allegations about other individuals and of their interactions with School District staff
- the wishes of the third parties[11]
- the School District's view that the personal information had been supplied in confidence for the purposes of s. 22(2)(f)
- the fact that some of the information was not responsive to the applicants' request, as it was not about the applicants or their child[12]

[15] The School District also said it considered s. 22(2)(e) to be a relevant factor, as the applicants have demonstrated a pattern of initially responding positively to School District staff and then turning against those staff when they perceive the staff have a negative impact on their son or his educational program. The School District said that this has resulted in "angry confrontations at school", "persecutions of individuals", public criticism and other "distressing behaviours", making the third parties reluctant to share their personal information with the applicants.[13] The School District provided *in camera* affidavit evidence[14] on this point, as well as additional rationale for severing the individual records, some of the latter also on an *in camera* basis.[15]

[16] The School District then referred to the applicants' request for review in which the applicants said they had made their access request to receive "information pertinent to the medically necessary treatment" for their son. None of the withheld information is about the applicants or their child, said the

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[10] Paras. 22-36, initial submission.
[11] The School District's superintendent of schools deposed that she met with certain (unspecified) third parties just prior to this inquiry to review the records and that some of them agreed to the disclosure of some of their own personal information while others did not. This resulted in one of the mediation disclosures referred to in the background section above. Paras. 18 & 25 ii, Morgan affidavit.
[12] Paras. 37-40, initial submission; paras. 20-25, Morgan affidavit. Portions of the Morgan affidavit dealing with some of the School District's considerations were received—properly—*in camera*. The School District said it also considered and rejected as irrelevant the factors in ss. 22(2)(g) and (h).
[13] Paras. 25 e, i & ii, Morgan affidavit.
[14] Paras. 25 i & iii, Morgan affidavit.
[15] Exhibit "A", Morgan affidavit.

School District, nor would it serve the purpose the applicants have identified.[16] The responsive information may well not serve that purpose, but of course the issue here is whether or not the applicants are entitled to have access to the withheld information.

[17] The applicants' submission dealt principally with "[our] struggle to receive our son's educational rights from School District 69" since he started kindergarten. They believe that they have been discriminated against, they have not been able to achieve a resolution through mediation and there has been a breakdown in communications between themselves and School District officials.[17]

[18] The applicants said that all of the severed information is important to them, as it may affect their son's treatment. While the applicants only want information about themselves and their son, they said they also require the names of individuals who made statements about them or their son, as well as the statements themselves,

> … to qualify the information as it pertains to [their son's] treatment and the barriers put in place to prevent his treatment and subsequent recovery from moving forward, as well as his safety within the school setting.[18]

[19] The applicants said they do not want other people's work history or information about third parties' feelings and other personal issues of the third parties. However, third parties' communications that relate to them or their son, "where there is a reasonable potential that these personal discussions impacted our son's outcome in any way", must not be severed, they said, as it may be relevant to a fair determination of his rights under s. 22(2)(c).[19] The applicants said that:

> … information created by teachers, aides and/or administrators is directly related to a child's medically necessary treatment. … This information, whether good or bad, is imperative for accurate determination and assessment of the child's treatment protocols.[20]

[20] In response, the School District said that s. 22(2)(c) does not require disclosure of personal information where it is relevant to a fair determination of the applicant's rights. Rather, it is one of several factors a public body must

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[16] Paras. 41-43, initial submission.
[17] Pages 1-14, initial submission. The School District objected at para. 8 of its reply to the applicants' remarks about the School District's role and actions regarding their son, saying the remarks were inaccurate and misleading and not within this Office's jurisdiction. While I make no comment on the merits of the applicants' remarks, I agree with the School District that they are not relevant to the issues before me.
[18] Pages 14-15, initial submission.
[19] Original underlining.
[20] Pages 15-16, initial submission; pp. 3-4, reply.

consider in applying s. 22. Contrary to the applicants' suggestion that the School District did not consider this factor, the School District said it did take s. 22(2)(c) into account and considered it to be irrelevant. The applicants have provided no evidence or argument showing how the withheld information is relevant to any legal rights they may have at stake in any proceedings, the School District argued, and the records themselves provide no support for the application of s. 22(2)(c).[21]

Whose personal information is it?

[21] I have carefully reviewed the records that the School District provided to me for the s. 22 part of this inquiry. I agree with the School District that they contain the personal information of the applicants and their child, as well as personal information of School District staff and other third parties. Of the responsive records, the School District disclosed the vast majority, withholding relatively little information. I commend the School District for its painstaking efforts in its line-by-line severing of the records.

[22] The School District takes the view that none of the withheld information is about the applicants[22] and on that point I do not entirely agree with it. Most of the withheld personal information relates to third parties' personal views, feelings, comments and opinions about workplace issues, conditions and events pertaining to themselves or other third parties. I agree with the School District that this information is third-party personal information that falls under s. 22(3)(d). Its disclosure is therefore presumed to be an unreasonable invasion of third-party privacy. As the applicants have said they do not want this type of information, however, I need not consider it here. For the same reason, I need not consider the application of s. 22 to School District employees' home addresses and telephone numbers, dates of birth and social insurance numbers.

[23] A few of the withheld phrases are third parties' comments about one of the applicants. These comments are not third-party personal information, but the personal information of that applicant. The issue therefore arises of whether or not disclosure of the applicant's own personal information to that applicant would be an "unreasonable invasion" of third-party "personal privacy". As previous orders have noted, in such cases, the applicant has a *prima facie* right of access to his or her own personal information and the public body has the burden of proving why an applicant is not entitled to have access to that information.[23]

Relevant circumstances

[24] Turning to the relevant circumstances, I agree with the School District that the factor in s. 22(2)(c) is not relevant here, for the reasons the School District

[21] Paras. 11-14, reply.
[22] Para. 41, initial submission.
[23] See Order No. 330-1999, [1999] B.C.I.P.C.D. No. 43, for example.

advanced. I have also considered the School District's argument and evidence on s. 22(2)(e) and, although I cannot say much about them, I am not persuaded that this section applies to brief references to one of the applicants on pages D3, D8-a, D49-a & b, D78-b, D90-a and D95. The information in question—straightforward, if informal, comments or questions—came from individuals, principally School District employees, communicating officially with each other in the course of carrying out their employment duties or in an analogous capacity.

[25] As for s. 22(2)(f), the School District said that one record was marked "confidential" although no others were. It is clear from the nature of the communications, in the School District's view, that the third parties had "some expectation of privacy in relation to their personal information in such communications". It said it took this into account in severing the records.

[26] The School District is correct that one page is marked "confidential" but the School District has already disclosed this record in severed form. The School District did not explain how it was clear that the rest of the records were confidential. The records themselves—routine, work-related email strings and letters—give no indication whatsoever that the information in them was supplied in confidence or that their authors had an expectation of privacy in creating them. The School District has not established that the information in the disputed records was supplied in confidence and I find that s. 22(2)(f) does not apply here.

[27] For the reasons given above, I find that s. 22(1) does not apply to the few brief references to one of the applicants on pages D3, D8-a, D49-a & b, D78-b, D90-a and D95. I have resevered these pages for the School District to disclose to the applicants.

[28] **3.4 Does Section 21(1) Apply?**—The School District applied s. 21(1) to the "grievance records", *i.e.*, three items which it created and which it called, collectively, "record 262". The School District partially disclosed to the applicants two of the items, letters which it called the "grievance correspondence" (pp. D262-d and D262-e). In doing so, the School District said, it provided the applicants with their own personal information while protecting confidential labour relations information.[24] It appears that the School District also originally intended to partially disclose the third item, the "grievance meeting notes" (pp. D262-a to D262-c), but decided it could not do so without revealing "confidential labour relations information". In any event, ultimately, the School District withheld the grievance meeting notes in their entirety under s. 21(1).[25]

[29] Section 21(1) has been the subject of many orders[26] and I apply here, without repeating them, the principles set out in those orders. The relevant portions of s. 21 read as follows:

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[24] Para. 18, reply submission.
[25] Para. 38, unions' initial submission; para. 88, School District's initial submission.
[26] See, for example, Order 03-02, [2003] B.C.I.P.C.D. No. 2.

Disclosure harmful to business interests of a third party

21(1) The head of a public body must refuse to disclose to an applicant information

(a) that would reveal …

(ii) commercial, financial, labour relations, scientific or technical information of or about a third party,

(b) that is supplied, implicitly or explicitly, in confidence, and

(c) the disclosure of which could reasonably be expected to …

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied, …

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

[30] Schedule 1 to FIPPA contains this relevant definition:

"**third party**", in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than

(a) the person who made the request, or

(b) a public body;

[31] The School District and the BCPSEA[27] took the position that the applicants are not entitled to the withheld information in record 262 as, in their view, it is labour relations information protected from disclosure under ss. 21(1)(a)(ii), (b) and (c)(ii) of FIPPA. The unions argued that ss. 21(1)(a)(ii), (b) and (c)(ii) and (c)(iv) apply. The School District and the unions provided *in camera* evidence describing the particular grievance out of which record 262 arose[28] and on the contents of Record 262".[29] The School District asked that in the event I find that s. 21 does not apply to the "grievance notes", I order disclosure only of the applicants' personal information.[30]

[32] The applicants said that, because they do not know what has been withheld, they dispute the withholding of any information under s. 21(1) in

[27] The School District and the BCPSEA made joint submissions on s. 21(1). For convenience, I refer to them below collectively as the School District.
[28] Paras. 28-37, McCaffery affidavit; paras. 33-36, Chutter affidavit.
[29] Paras. 70-72, initial submission; paras. 31-34, McCaffery affidavit; paras. 33-36, Chutter affidavit.
[30] Para. 90, initial submission.

record 262. They also denied that the disputed information is labour relations information and that it was supplied in confidence.[31]

[33] The unions and the School District referred in their submissions to certain provisions from the *Labour Relations Code* and the Teachers Collective Agreement and these are set out below, along with some other background information.

Labour Relations Code

Duties under this Code

2 The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that

(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,

(b) fosters the employment of workers in economically viable businesses,

(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,

(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,

(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,

(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,

(g) ensures that the public interest is protected during labour disputes, and

(h) encourages the use of mediation as a dispute resolution mechanism.

Parties bound by collective agreement

48 A collective agreement is binding on

(a) a trade union that has entered into it or on whose behalf a council of trade unions has entered into it, and every employee of an employer who has entered into it and who is included in or affected by the agreement, and

[31] Page 1, initial submission; pages 4-6, reply submission.

(b) an employer who has entered into it and on whose behalf an employers' organization authorized by that employer has entered into it.

Dismissal or arbitration provision

84(1) Every collective agreement must contain a provision governing dismissal or discipline of an employee bound by the agreement, and that or another provision must require that the employer have a just and reasonable cause for dismissal or discipline of an employee, but this section does not prohibit the parties to a collective agreement from including in it a different provision for employment of certain employees on a probationary basis.

(2) Every collective agreement must contain a provision for final and conclusive settlement without stoppage of work, by arbitration or another method agreed to by the parties, of all disputes between the persons bound by the agreement respecting its interpretation, application, operation or alleged violation, including a question as to whether a matter is arbitrable.

(3) If a collective agreement does not contain a provision referred to in subsections (1) and (2), the collective agreement is deemed to contain those of the following provisions it does not contain:

(a) the employer must not dismiss or discipline an employee bound by this agreement except for just and reasonable cause;

(b) if a difference arises between the parties relating to the dismissal or discipline of an employee, or to the interpretation, application, operation or alleged violation of this agreement, including a question as to whether a matter is arbitrable, either of the parties, without stoppage of work, may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference to arbitration, and the parties must agree on a single arbitrator, the arbitrator must hear and determine the difference and issue a decision, which is final and binding on the parties and any person affected by it.

Collective Agreement

[34] The School District and the unions each provided a copy of the relevant Teachers Collective Agreement, to which the BCTF, the MATA, the School District and the BCPSEA are parties.[32] The Collective Agreement sets out the terms and conditions of employment for teachers in the School District and recognizes the unions as the bargaining agents for teachers employed by the

[32] Exhibit "A", Chutter affidavit; Exhibit "A", McCaffery affidavit.

School District.[33] The BCPSEA represents all school boards in the province and is their accredited bargaining agent.[34] The provisions to which the School District and the unions referred read as follows:

> **Article A.6.8.c:**
>
> All discussions and correspondence during the grievance procedure or arising from Article A.6.7.c shall be without prejudice and shall not be admissible at an arbitration hearing except for formal documents related to the grievance procedure, i.e., the grievance form, letters progressing the grievance, and grievance responses denying the grievance.
>
> **Article A.6.9.a:**
>
> After a grievance has been initiated, neither the employer's nor BCPSEA's representatives will enter into discussion or negotiation with respect to the grievance, with the grievor or any other member(s) of the bargaining unit without the consent of the Local or the BCTF.
>
> **Article E.12.1.d:**
>
> All parties involved in a complaint agree to deal with the complaint expeditiously and to respect confidentiality.

The Grievance Process

[35] Article A.6 of the Collective Agreement, which applies to all school boards in the province,[35] sets out the grievance procedure and constitutes "the method and procedure for a final and conclusive settlement of any dispute … respecting the interpretation, application, operation or alleged violation of this Collective Agreement … ". A grievance may arise out of a number of issues, such as discipline, discharge, harassment, entitlement to benefits or leaves, health and safety concerns, workplace conflict and performance issues.[36]

[36] Under Article A.6, there are three progressive steps in a grievance, involving meetings and discussions among the parties, where they explore the issues and attempt to resolve the grievance. If the parties are unable to resolve a grievance by Step 3, it may be referred to arbitration in which an arbitrator hears the matter and makes a decision. Certain formal grievance documents are admissible in the arbitration process.[37]

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[33] Cover page and Article A.2.1, Collective Agreement, Exhibit "A", Chutter affidavit.
[34] Article A.2.3, Collective Agreement; paras. 6-7, Chutter affidavit.
[35] Para. 20, Chutter affidavit.
[36] Para. 28, Chutter affidavit; para. 21, McCaffery affidavit.
[37] Para. 14, McCaffery affidavit.

The Role of the BCPSEA

[37] The School District said that the BCPSEA was created under the *Public Sector Employers Act* in 1993, which established six sectoral employers' associations. The BCPSEA is the employers' association for the K-12 public education sector. It represents all school boards in the province and is their accredited bargaining agent in the collective bargaining process. In addition to acting as bargaining agent, the BCPSEA provides labour relations advice and resources to school boards.[38]

[38] **3.5 Labour Relations Information**—The School District and the unions both argue that the withheld information in record 262 is "labour relations information of or about" the parties to the Teachers Collective Agreement. Their arguments, which were similar, may be summarized as follows:[39]

- the unions and the School District deal with collective and individual rights under the Collective Agreement, which sets out the collective relationship between the parties to the Agreement and under which the unions and the School District have a "labour relations relationship"

- whenever there is a grievance under the Collective Agreement, whether it deals with one or many members, there is a "labour relations dispute", which the parties attempt to resolve through the grievance procedure

- the term "labour relations information"[40] includes information:
  - o concerning the collective relationship between an employer and its employees or an employer or a union
  - o related to a union's role or position in the collective bargaining process with the employer, negotiations and bargaining positions or other related labour relations matters
  - o arising from the administration of the Collective Agreement, including, as here, the filing and processing of grievances under the Agreement's grievance and harassment provisions

- the records in this case contain "labour relations information of or about":
  - o the unions, as the records relate to the unions' role or position in the collective bargaining process with the employer

[38] Paras. 4-13, Chutter affidavit.
[39] Paras. 1-72, unions' initial submission; paras 5-21 & 31-34, McCaffery affidavit; paras. 51-54 & 62-64, School District's initial submission.
[40] The School District and the unions also referred to the interpretation of this term in Order 04-04, [2004] B.C.I.P.C.D. No. 4, and Order F05-02, [2005] B.C.I.P.C.D. No. 2.

- the parties to the agreement, as the records (a) arose out of a grievance the unions filed in response to teachers' labour relations issues or (b) record or relate to the unions' and School District's discussions, questions, comments and positions in the grievance and harassment complaint
- the BCPSEA, in that the records reflect advice the School District sought from the BCPSEA regarding the grievance[41]

- the information in dispute need not have been supplied by the unions in order to fall under s. 21(1)(a)(ii)

[39] I discussed "labour relations information" in Order F05-02 as follows:

> [97] The meaning of labour relations information has arisen in relation to two areas of the Ontario information and privacy legislation: s. 17 of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F-31, the Ontario counterpart of s. 21 of the Act, and s. 65(6)3 of the statute, which excludes from the Ontario Act's scope all records collected, prepared, maintained or used by or on behalf of an institution in relation to meetings, consultations, discussions or communications about "labour relations or employment-related matters" in which the institution has an interest.
>
> [98] In Ontario (*Minister of Health and Long-Term Care) v. Ontario (Assistant Information and Privacy Commissioner*), [2003] O.J. No. 4123, the Ontario Court of Appeal held as follows concerning the meaning of "labour relations" in s. 65(6)3 of the Ontario statute:
>
> > [1] … The phrase is not defined in that Act, and its ordinary meaning can extend to relations and conditions of work beyond those relating to collective bargaining. Nor is there any reason to restrict the meaning of "labour relations" to employer/employee relationships; to do so would render the phrase "employment-related matters" redundant.
> >
> > [2] The relationship between the government and physicians, and the work of the Physician Services Committee in discharging its mandate on their behalf, including provisions for remuneration of physicians, fall within the phrase "labour relations" …
>
> [99] Ontario Order PO-2211, [2003] O.I.P.C. No. 257, following the above decision of the Ontario Court of Appeal, interpreted "labour relations" in s. 65(6)3 to mean "the collective bargaining relationship between an institution and its employees, as governed by collective bargaining legislation, or to analogous relationships".
>
> [100] Section 21(1)(a)(ii) of the Act refers to "labour relations information" but, unlike s. 65(6)3 of the Ontario legislation, it does not also refer to "employment-related matters", a more expansive phrase. I conclude that

[41] Only the School District made this argument, at para. 65 of its initial submission.

> "labour relations information" in s. 21(1)(a)(ii) may not necessarily be strictly limited to the collective bargaining relationship between employer and union in that it may also include negotiations, bargaining and related matters between parties to analogous relationships. At the same time, labour relations information is not synonymous with the wider category of information about an individual's actions on the job, and information may be "of or about" an employee without being "of or about" organizations to which the employee belongs, in this case the BCTF or the NDTA.

[40] A recent Ontario order found that records "collected, prepared or maintained for grievance proceedings or anticipated grievance proceedings under a collective agreement" related to a "labour relations matter" respecting the employment of the appellant (applicant).[42] The same order referred to a number of previous Ontario orders which have found that the term "labour relations or employment-related matters" applies to both individual and collective cases.[43]

[41] In Alberta Order 2000-003,[44] the Alberta Information and Privacy Commissioner found that "labour relations information" referred to "collective relations" (such as collective bargaining and related activities) and also to relations between a particular management employee and other employees, and to relations between employees. He found that this "labour relations information" arose in the context of grievances by some employees against the management employee and other employees.[45] He also found that a grievance is a "labour relations dispute", that the individual management employee against whom the grievances were filed and the academic staff who filed the grievances were "third parties" for the purposes of the equivalent exception in Alberta's *Freedom of Information and Protection of Privacy Act* and that the record contained "labour relations information of" those individuals as third parties. He agreed that the faculty association which represented the management employee was also a third party for the purposes of the exception, but said that the record in dispute in that case contained no information of the faculty association.[46]

[42] After considering these orders, I am of the view that the term "labour relations information" includes information related to particular labour relations issues and disputes, such as grievances, that arise within the collective bargaining relationship between employer and union or analogous relationships. (I discuss the term "labour relations dispute" further below.)

[43] The disputed information in record 262 arose out of and is related to a grievance that the MATA filed under the Collective Agreement against the

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[42] Order PO-2626, [2007] O.I.P.C. No. 182, at paras. 33-34.
[43] At para. 43.
[44] [2000] A.I.P.C.D. No. 33.
[45] At paras. 98-101.
[46] At paras. 105-113.

School District on behalf of its members. Portions of the record reflect the MATA's positions, discussions and comments regarding the grievance. Moreover, the MATA is a third party as defined in FIPPA. I am therefore satisfied that these portions are "labour relations information of or about" the MATA for the purposes of s. 21(1)(a)(ii).

[44] The School District said that record 262 also reveals the School District's position and comments on the grievance and its part in attempting to resolve the grievance, after it sought advice from the BCPSEA. This means, the School District said, that this information is "labour relations information of or about" the BCPSEA as a third party. The School District did not explain how any such advice is "labour relations information of or about" the BCPSEA. It also did not explain how the record reveals any such advice and this is by no means obvious from the record itself. Information in record 262 that is not the unions' labour relations information clearly relates to the School District's positions and comments in the grievance and is thus the School District's labour relations information. The BCPSEA is not even mentioned in record 262.

[45] In any case, the BCPSEA was acting as the School District's representative and advisor during the grievance and any advice it gave the School District was for the School District's benefit. If record 262 did reflect any labour relations advice—and, again, this is not evident from the record—it would in my view be the School District's "labour relations information", not the BCPSEA's. The BCPSEA's status as an external advisor does not somehow turn the School District's labour relations information into third-party information as well. I reject the School District's arguments that the disputed information is "of or about" the BCPSEA.

[46] The School District argues in its submission on confidential supply, discussed below, that labour relations is a "bipartite" or "multi-party" exercise and it is thus difficult to "isolate" the information of one or another party. The School District and unions also take the position that record 262 contains labour relations information of or about the parties to the Collective Agreement, *i.e.*, that it is joint information. However, I could identify no information in record 262 that was "of or about" both the School District and the unions. Information in record 262 that is not the unions' labour relations information is clearly "labour relations of or about" only the School District. As such, this information does not fall under s. 21(1)(a)(ii).

[47] **3.6 Confidential Supply**—The unions and the School District provided similar arguments and evidence in support of their position that the disputed information in record 262 was supplied in confidence, as required by s. 21(1)(b).

Both rely on Articles A.6.8.c, A.6.9.a and E.12 of the Collective Agreement to support their arguments,[47] a summary of which follows:

- there is a mutual expectation of privacy and confidence regarding discussions, meetings and correspondence between parties who are trying to resolve a labour relations dispute and reach a mutually acceptable settlement of the grievance
- it is the parties' practice to treat all grievance matters as confidential
- the grievance process in this case was conducted in confidence
- any information arising out of the grievance was supplied in confidence
- the common law recognizes confidentiality of the grievance process
- Article A.6.8.c. of the Teachers Collective Agreement codifies the common law and labour relations principles that treat settlement discussions—discussions and correspondence during the grievance procedure—as "without prejudice" and inadmissible at arbitration and this is the parties' practice; the unions referred to cases dealing with whether or not certain grievance-related "without prejudice" records were admissible in arbitration proceedings, because the records were "privileged", in recognition of the public interest in encouraging settlement of disputes; this practice encourages "informal and uninhibited dialogue between the parties"[48]
- Article E.12.1.d. of the Collective Agreement recognizes that harassment grievances are inherently sensitive and the parties expressly agree to deal with such complaints in a manner which respects confidentiality[49]
- nothing in s. 21(1)(b) requires that the information in issue be supplied by the third party and so, while the unions supplied much of the information in issue, it does not matter that the School District supplied other information in confidence

[48] Regarding the "supplied" part of the test, the School District also had this to say:

> 76. In previous Orders addressing the meaning of Section 21(1)(b) the Commissioner has interpreted the "supply" element of the requirement that the disputed information be "supplied in confidence" as limited to information supplied by a third party and excluding any information generated by the public body. In our submission, this restrictive analysis should not apply when the protected information is labour relations information. Labour relations is necessarily a bipartite, or in the present context,

[47] Paras. 66-75, School District's initial submission; paras. 20-25 & 31, Chutter affidavit; paras. 77-94, unions' initial submission; paras. 13-27, McCaffery affidavit.
[48] Paras. 66-71, School District's initial submission.
[49] Paras. 72-75, School District's initial submission.

> a multi-party exercise. Therefore, it is difficult to isolate labour relations information as being of or about only one party.

[49] The School District added that the records reflect discussions among the parties to the agreement—the School District, the BCPSEA, the MATA and the BCTF—and record the positions of the parties and reveal confidential labour relations information that the unions and the BCPSEA supplied. The fact that the School District generated the grievance records should not disqualify them from falling under s. 21(1), it argued.[50]

[50] The unions also said that the parties are statutorily bound by s. 48 of the *Labour Relations Code* to comply with the Collective Agreement, which means that unless they comply with it they are in breach of it. Thus, they argued, the parties to the Collective Agreement are bound to treat grievances as confidential. If the School District breached the Collective Agreement by not treating grievance material in confidence or by requiring it to disclose such information to the public, the unions continued, the School District would be in breach of both the Collective Agreement and s. 48 of the *Labour Relations Code*, and a breach of the latter is an offence under s. 5 of the *Offence Act*.[51]

[51] Regarding this last argument, I note that the *Labour Relations Code* does not state that it applies despite FIPPA. Thus FIPPA takes precedence over the *Labour Relations Code* and any Collective Agreement made under it.

Was the information supplied "in confidence"?

[52] I found above that s. 21(1)(a)(ii) applies only to those portion of record 262 which contain "labour relations information of or about" the unions. The issue therefore arises of whether this information meets the "supplied" part of the test in s. 21(1)(b).

[53] First, the School District did not refer me to any specific orders in support of its assertions that the Commissioner has interpreted the "supply" element of the requirement that the disputed information be "supplied in confidence" as limited to information supplied by a third party and excluding any information generated by the public body. I could find none. In Order 04-08,[52] the Commissioner dealt with a report that an independent consulting firm had prepared for a corporation and which had come into the hands of the public body and made this finding:

> 35. I conclude that the information in the Report that the Ministry withheld from the Village was not Ministry-generated, -derived, -negotiated or agreed-to information. The information used to generate the Report was

[50] Paras. 77-79, initial submission.
[51] Paras. 84-85, initial submission.
[52] [2004] B.C.I.P.C.D. No. 8, at paras. 30-35.

> supplied to Andersen (acting on behalf of 552) by Skeena (directly and indirectly) and others. In the Report, Andersen compiled, analyzed, distilled and commented on information it had gathered and generated alternatives for 552's investment in Skeena. The Report was provided to Andersen's client, 552, and also found its way to the Ministry, whose officials were monitoring the Province's interests in Skeena.

[54] Similarly, in Order F05-01,[53] I said that an auditor's report to a public body contained third-party business information which the auditor had obtained from the third party. In addition, the Commissioner observed in Order 03-03[54] that s. 21(1)(a)(ii) information need not be just "of the third party":

> [13] I have observed in previous orders that information "of" a third party under s. 21(1)(a) need not relate only to that party. The terms of a mutually agreed-upon contract, assuming they are commercial, financial, labour relations, scientific or technical information, are information that is of both contracting parties under s. 21(1)(a)(ii).

[55] I do not read this observation as being limited to mutually-agreed contractual terms. In any case, this is not an issue here, as I found above that discrete segments of record 262 contain labour relations information of or about the unions and other discrete segments contain the labour relations information of or about the School District. Record 262 contains no information of or about both the School District and the unions.

[56] I agree that the fact that the School District generated record 262 has no bearing on the issue of "supply" for the purposes of s. 21(1)(b). I also agree that a third party need not have supplied the information itself, in order for the information to have been "supplied" to a public body.[55]

[57] Previous orders on s. 21 have generally dealt with contracts or agreements. Information in these types of records does not normally meet the "supplied" part of the test, as it is a mutually-agreed product of negotiations between the parties.[56] In cases where third-party information was found to be "supplied", it has generally been where a third party provided the recorded information in question to the public body directly, in the form of something such as a financial statement or a proposal, or where it was indirectly supplied to the public body through a different third party. A public body's own documents may also reveal information that a third party supplied in confidence.[57]

[58] The information in question here consists of or refers to the unions' comments, questions and positions about the grievance. It is clear from the way

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[53] [2005] B.C.I.P.C.D. No. 1, at paras. 26-28.
[54] [2003] B.C.I.P.C.D. No. 3.
[55] As above, see Order F05-01 and Order 04-08.
[56] See, for example, para. 32 of Order 03-04, [2003] B.C.I.P.C.D. No. 4.
[57] See Order 03-33, [2003] B.C.I.P.C.D. No. 33, for example.

record 262 is structured that the "labour relations information of or about" the unions originated with the union representatives who attended grievance meetings with School District officials. I am satisfied the unions "supplied" the "labour relations information of or about" the unions to the School District in the course of the meetings. I find that this information meets the "supplied" part of the test in s. 21(1)(b).

[59] I need not also consider whether "labour relations information of or about" the School District in record 262 falls under s. 21(1)(b) as I found that this information does not fall under s. 21(1)(a)(ii). I do not in any case think that, in creating record 262, the School District can be said to have supplied its labour relations information to itself and thus meet the supply test in s. 21(1)(b).

[60] Both the School District and the unions provided affidavit evidence that there was a mutual expectation that the grievance process would be conducted in confidence and that this one was conducted in such a manner. Record 262 does not bear any explicit markings of confidentiality. Nevertheless, in the circumstances, I am satisfied that the School District and the unions have established that there was a mutual intention to maintain confidence in the grievance process and in the parties' provision of information to each other. I therefore find that the "in confidence" part of the s. 21(1)(b) test is met.

[61] I do not consider, however, that the School District and the unions' reference to Article 6.8.c of the Collective Agreement assists them. Article 6.8.c states that discussions and correspondence are "without prejudice" and not admissible in an arbitration. The issue here is not one of admissibility of records before an arbitrator and for this reason the Article 6.8.c does not assist the School District and the unions' argument on confidentiality.

[62] I also do not consider that Article 6.9.a of the Collective Agreement assists the arguments of the School District and the unions. In recognition of the fact that it is the union, and not the individual grievor, that has carriage of a grievance, Article 6.9.a prohibits the School District and the BCPSEA from communicating with a grievor without the unions' consent. It has no relevance to the issue of confidentiality of supply in this case.

[63] I find that the information in record 262 that is "labour relations information of or about" the unions within the meaning of s. 21(1)(a)(ii) was "supplied in confidence" for the purposes of s. 21(1)(b).

[64] **3.7 Similar Information Will No Longer Be Supplied**—The School District and the unions provided similar arguments on this issue as well.[58] I summarize them below:

[58] Paras. 55-57 & 80-90, School District's initial submission; paras. 26-39, Morgan affidavit, portions received *in camera*; Brian Chutter provided similar evidence at para. 39 of his affidavit; paras. 95-98, unions' initial submission; paras. 25-27, McCaffery affidavit.

- there is a public interest in the speedy resolution of labour relations disputes as they can result in low morale, workplace conflict and disruptions and other negative effects
- the grievance procedure is the method by which the Legislature has mandated the resolution of labour relations disputes without work stoppages and disruption of service; this is why s. 84 of the *Labour Relations Code* requires that every collective agreement have a grievance and arbitration procedure for the settlement of disputes between those bound by the agreement
- the parties to a collective agreement must be able to engage in "full, frank and confidential discussions during the grievance procedure"; access by third parties to such discussions could make the parties reluctant to supply confidential labour relations information
- inhibition of the free flow of information between the parties would affect their ability to resolve their disputes, which would not be in the public interest, as it would not promote the public policy goal behind ss. 2 and 84 of the *Labour Relations Code* of settling disputes without work stoppages, through grievances and arbitration
- while disclosure would not eliminate the grievance procedure, disclosure would diminish the number of resolutions and lead to more arbitrations, with increased costs to the public purse

[65] The School District acknowledged that, where there is a statutory compulsion or a financial incentive for providing information, s. 21(1)(c)(ii) will not normally apply:

> 58. Accordingly, the confidential supply of labour relations information must be voluntary in order for there to be a risk that disclosure may result in a reasonable expectation that the information will no longer be supplied. Further, the risk or reasonable expectation may be found even where there is incentive for the third party to voluntarily supply the disputed information.

[66] The School District and the unions admitted that the grievance process would not be "eliminated" if record 262 were disclosed. Indeed, it is clear from the wording of the *Labour Relations Code* and the Collective Agreement that the School District and the unions cannot dispense with the grievance process. They argue, however, that, faced with disclosure to outsiders, parties to a grievance would be less forthcoming and that fewer grievances would be settled without proceeding to arbitration, resulting in higher costs to all involved. This is essentially the "chilling effect" argument that parties have raised,

unsuccessfully, in many, many previous orders in relation to a wide range of FIPPA's exceptions to the right of access, most recently in Order F08-09.[59]

[67] As the School District acknowledged, previous orders have shown that, where the provision of information is compulsory or where there is a financial incentive, s. 21(1)(c)(ii) will not apply.[60] Commissioner Loukidelis has said, I note, that these are not exhaustive considerations or inflexible rules.[61]

[68] I accept that there is a public interest in the speedy resolution of labour disputes without work stoppages and with minimal disruption in the workplace. I also accept that the parties consider it is beneficial to have confidential discussions during a grievance process. The School District and the unions would, however, have me accept that the provision of information in the grievance process is voluntary, despite the fact that the School District and unions are required under the *Labour Relations Code* and the Collective Agreement to engage the grievance process in the event of a labour relations dispute and that the process obviously cannot work without information.

[69] Under Article A.6 of the Collective Agreement, the grievance process expressly involves a staged process with set timelines and meetings among the parties. Moreover, under s. 2 of the *Labour Relations Code*, parties have an express duty to co-operate with each other during grievance discussions. It seems to me that this necessarily encompasses the free and frank exchange of information on their positions in the grievance in order to achieve an effective and speedy resolution to the grievance, without resort to an expensive and time-consuming arbitration.

[70] While the School District and the unions have offered their opinions on the potentially negative and sweeping effects disclosure might have on the grievance process generally, they have provided no evidence to support their arguments. I do not see how disclosure of the record in dispute here would inhibit the future free and frank exchange of views, which takes place orally, in grievance meetings. The parties are in my view free to continue to engage in wide-ranging, free-wheeling verbal discussions of grievance matters in future meetings and ideally resolve them quickly and efficiently. Any records of such meetings are unlikely to reflect the free-flowing nature of such discussions.

[71] The School District and unions' arguments are, in my view, speculative and do not suffice to establish a reasonable expectation for the purposes of

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[59] [2008] B.C.I.P.C.D. No.15. See also, Order F08-03, [2008] B.C.I.P.C.D. No. 6, Order F05-18, [2005] B.C.I.P.C.D. No. 26, Order F05-02, Order 03-34, [2003] B.C.I.P.C.D. No. 34, Order 00-18, [2000] B.C.I.P.C.D. No. 21, Order 00-11, [2000] B.C.I.P.C.D. No. 13.

[60] See Order F05-29, [2005] B.C.I.P.C.D. No. 39, and Order 03-05, [2003] B.C.I.P.C.D. No. 5, for example.

[61] See para. 16 of Order 03-05.

s. 21(1)(c)(ii). I find that the burden of establishing that this section applies has not been met.

[72] **3.8 Information Supplied to a Labour Relations Officer**—In the unions' view, each of the superintendent, the assistant superintendent of schools and the human resources manager was a "labour relations officer", or at least an "other person", attempting to resolve the labour relations dispute in question (*i.e.*, the grievance) as, the unions argued, these individuals had, or were appointed with, the authority to inquire into and resolve the grievance. The unions disagree with Order 04-04, which found an "other person" for these purposes to be a neutral third party, such as a labour arbitrator or mediator, although they agree that the person should have the authority to deal with and resolve the particular dispute. For the reasons the unions gave above, they argue that the grievance created "labour relations information" and was a "labour relations dispute" for the purposes of s. 21(1)(c)(iv).[62]

[73] The School District does not agree with the unions that s. 21(1)(c)(iv) applies here, as it does not regard the Superintendent of Schools, the Assistant Superintendent and the Human Resources Officer as "labour relations officers" or "other persons". Nor does it consider that, when these individuals were engaged in ongoing grievance discussions, they were "appointed to inquire into a dispute" within the meaning of s. 21(1)(c)(iv). The School District says that past orders from Ontario[63] and British Columbia[64] have interpreted the terms "labour relations officer" and other appointed individuals to mean neutral third parties. In this case, the School District said that neither it nor the unions were neutral in inquiring into and attempting to resolve the grievance but rather represented the interests of the employer and the grievors and the unions, respectively. Where the parties are unable to agree on a resolution, the School District said that Articles A.6 and A.7 of the Collective Agreement provide for the consensual appointment of a neutral third party. The School District is of the view that s. 21(1)(c)(iv) protects labour relations information supplied in confidence to, or a report of, this type of neutral third party.[65]

[74] I said in Order F05-02 that a "labour relations dispute is a dispute among parties to a labour relationship concerning some aspect of that relationship".[66] Similarly, the Alberta Commissioner found that a grievance is a "labour relations dispute" for the purposes of the equivalent provision in the Alberta legislation.[67] Bearing these findings in mind, I readily agree with the unions that a grievance is a "labour relations dispute" for the purposes of s. 21(1)(c)(iv). I also agree, for

[62] Paras. 107- , initial submission.
[63] Order P-653, [1994] O.I.P.C. No. 108.
[64] Order 04-04, [2004] B.C.I.P.C.D. No. 4.
[65] Paras. 23-26, reply submission.
[66] At para. 110.
[67] Paras. 127-128, Order 2000-003.

the same reasons I gave above, that disclosure of record 262 could reasonably be expected to reveal "labour relations information".

[75] I do not, however, agree with the unions that the superintendent, assistant superintendent or human resources officer was a "labour relations officer" or an "other person" appointed to inquire into and resolve this "labour relations dispute". I considered the interpretation of these terms in Order 04-04[68] and found that they referred to a neutral third party. I remain of that view in this case. I agree with the School District that it and the unions represented their own interests in the grievance discussions and that, where the parties to a grievance cannot resolve a grievance, a neutral third party with authority to resolve the matter would be an arbitrator appointed under Article A.6 and A.7. I find that s. 21(1)(c)(iv) does not apply in this case.

Conclusion on s. 21(1)

[76] While I found that ss. 21(a)(ii) and 21(1)(b) apply to portions of record 262, I also found that ss. 21(1)(c)(ii) and (iv) do not apply to this record. All three parts of s. 21(1) must apply to information in order for a public body to be required to withhold it. I find that s. 21(1) does not apply to record 262.

[77] **3.9 Are the Applicants Entitled to More Information in Record 262?**—Record 262 consists of two types of information: personal information of the applicants or their child; and other information. The applicants requested access only to their own and their child's personal information. This means that the other information in record 262 is not responsive to the request.

[78] The School District apparently took the wording of the applicants' request into account when disclosing the two letters, as it said it disclosed the personal information of the applicants. The School District did not however disclose all references to the applicants in the two letters. In light of my finding that s. 21(1) does not apply to record 262, it is possible in my view to disclose to the applicants the few additional phrases in the two letters that contain responsive information.

[79] The School District argued that s. 21(1) applies to the grievance meeting notes in their entirety and that "it is not possible to sever the grievance meeting notes without disclosing confidential labour relations discussions between the parties in attempting to resolve the grievance".[69] The grievance meeting notes contain a number of discrete portions that are personal information of the applicants or their child and which are responsive to the applicants' request. As with the letters, given my finding on s. 21(1), it is reasonably possible in my

[68] At paras. 115-124.
[69] Paras. 16-19, reply submission.

view to disclose these portions to the applicants and that is what must happen. I have prepared a copy of record 262 for the School District showing the additional responsive information I am ordering disclosed. The information in question is similar in character to the information that the School District has already disclosed in the two letters.

[80] While I have decided that some more information must be disclosed to the applicants, I emphasize that the release of that information is circumscribed. The disclosure of the information in this case does not mean that all records related to grievance matters must be disclosed in future. The material I order disclosed here is only the applicants' personal information and its release is related to the particular facts before me.

4.0 CONCLUSION

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

1. I require the School District to give the applicants access to some of the responsive information it withheld under s. 22, as shown in the copies of pages D3, D8-a, D49-a & b, D78-b, D90-a and D95 provided to the School District with its copy of this order.

2. I require the School District to give the applicants access to some of the responsive information it withheld under s. 21(1) in record 262, as shown in the copy of this record provided to the School District with its copy of this order.

3. I require the School District to give the applicants access to the additional information in these records within 30 days of the date of this order, as FIPPA defines "day", that is, on or before July 3, 2008 and, concurrently, to copy me on its cover letter to the applicants, together with a copy of the records.

May 21, 2008

ORIGINAL SIGNED BY

Celia Francis
Senior Adjudicator

OIPC File: F06-29340