
Other Privacy Compliance Requirements

PERSONAL INFORMATION DIRECTORY

Part of responsible privacy management practices includes having and maintaining an inventory of all collections of personal information maintained by an organization. Maintaining such a list or directory helps to support privacy planning, reduce risk and ensure that the district can respond to breach incidents that may occur.

Maintaining a personal information directory also supports government transparency. It allows individuals to identify the location of personal information that is held about them by the government.

The requirement to develop and maintain a personal information directory appears in section 69(6) of the Act, which provides that:

FIPPA, section 69(6)

(6) The head of a public body that is not a ministry must make available for inspection and copying by the public a directory that lists the public body's personal information banks and includes the following information with respect to each personal information bank:

- a. its title and location;*
 - b. a description of the kind of personal information and the categories of individuals whose personal information is included;*
 - c. the authority for collecting the personal information;*
 - d. the purposes for which the personal information was obtained or compiled and the purposes for which it is used or disclosed;*
 - e. the categories of persons who use the personal information or to whom it is disclosed;*
 - f. information required under subsection (7).*
- 7. The minister responsible for this Act may require one or more public bodies, or classes of public bodies, that are not ministries of the government of British Columbia*
- a. to provide additional information for the purposes of subsection (6), and*
 - b. to comply with one or more of the subsections in this section as if the public body were a ministry of the government of British Columbia.*

A personal information directory must list all “personal information banks” (PIBs) within the custody or control of the school district. A PIB is a collection of personal information that is organized or retrievable by individual name, number, symbol or other identifier assigned to a particular individual.

A “personal information bank” (PIB) is defined in section 69 as follows:

FIPPA, section 69

an aggregation of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual;

If the district does not have a Personal Information Directory (PID), the following steps can be followed to create one:

- Assign an individual with the responsibility for conducting an inventory of the Personal Information Banks (PIBs) that are maintained within the district.
- Include in the inventory district records that are organized, arranged, or searchable by name or other individual identifier. For example, information pertaining to employees, students, parents, trustees, volunteers and others.
- Include both physical and electronic records in the inventory.

The PID may include, but not be limited to, the following records:

- paper student files
- electronic records (including MyEducationBC)
- payroll records
- disability and benefit files for employees
- personnel files

As part of this process, the district should consider the information that is mandated under the School Act to collect and maintain, and whether these records are organized or filed in a manner that could render them a PIB.

Departments and schools can assist with the inventory process by documenting the PIBs that they maintain. One way to provide direction and ensure that the school district receives consistent search results is to create a form, checklist or questionnaire to assist in the search for and identification of relevant information.

Staff should be asked to locate and inventory paper and electronic records that are organized or arranged by individual name, number, or other personal identifier including the following:

- School or department name
- Personal Information Bank (PIB) name
- PIB location (department, school, database, shared drive, etc)
- Categories of individuals in the PIB (e.g., staff, students, parents, etc.)
- Personal information collected (detailed personal data included in PIB)
- Purpose for the collection and use of information
- Individuals with access to the PIB (staff titles not individual names)

- Authority under which the information is collected (e.g., FIPPA section 26(c), School Act, Section 79(3), other legislation).

RESOURCES

The OIPC Guide **Accountable Privacy Management in BCs Public Sector** (pages 6-8) provides additional information regarding the importance of a thorough personal information inventory.

Examples of publicly available Personal Information Directories (PID) that can be used for reference:

- **Vancouver School Board**
- **Langara College**

INFORMATION AVAILABLE TO THE PUBLIC WITHOUT A REQUEST

Under section 70 of the Act, each public body has an obligation to establish and make available to the public certain records that will be available without a request. Those records should include documents such as manuals, instructions, guidelines and policies.

Section 70 of the Act provides:

FIPPA, section 70

1. *The head of a public body must make available to the public, without a request for access under this Act, the following records if they were created for the purpose of interpreting an enactment or for the purpose of administering a program or activity that affects the public:*
 - a. *manuals, instructions or guidelines issued to the officers or employees of the public body;*
 - b. *substantive rules or policy statements adopted by the public body.*
2. *The head of a public body may sever from a record made available under this section any information the head of the public body would be entitled under Part 2 of this Act to refuse to disclose to an applicant.*
3. *If information is severed from a record, the record must include a statement of*
 - a. *the fact that information has been severed from the record,*
 - b. *the nature of the information severed from the record, and*
 - c. *the reason for severing the information from the record.*
4. *The head of a public body may require a person who asks for a copy of a record made available under this section to pay a fee to the public body.*

Public bodies are also required, under section 71 of the Act, to establish additional categories of records within the custody or control of a public body that will be made available to the public without a request.

FIPPA, section 71

1. *Subject to subsection (1.1), the head of a public body must establish categories of records that are in the custody or under the control of the public body and are available to the public without a request for access under this Act.*

Public bodies should develop and make available a list of the categories or records that are available to the public without a request.

RETENTION AND DESTRUCTION

School districts should also take steps to examine their record retention practices. Retaining personal information, particularly **sensitive personal information**, without a valid business, operational or legal reason to do so, creates a privacy risk.

FIPPA imposes an obligation on school districts to retain personal information for at least one year if it is used to make a decision that directly affects an individual. This is to ensure that the individual has an opportunity to seek access to records containing their personal information if they wish to do so.

FIPPA's record retention requirement appears in section 31 of the Act.

FIPPA, section 31

If an individual's personal information

- a. *is in the custody or under the control of a public body, and*
- b. *is used by or on behalf of the public body to make a decision that directly affects the individual, the public body must ensure that the personal information is retained for at least one year after being used so that the affected individual has a reasonable opportunity to obtain access to that personal information.*

In addition to section 31 of the FIPPA, there are other statutes in British Columbia and Canada that require organizations to retain certain records, for example:

- The **BC Employment Standards Act** governs the payment of wages for all employees in B.C. except those specifically excluded from the Act. **Section 28(2)** of the Employment Standards Act requires an employer to keep records of information for each employee at its principal place of business in B.C. and to retain such records for four years after employment is terminated.
- The federal **Employment Insurance Act** requires every employer providing remuneration to persons employed in insurable employment to keep records or books of account at the employer's place of business for a period of six years commencing at the end of the year to which the records relate (section 87). Similar retention provisions apply under the Canada Pension Plan.
- **WorkSafeBC** also has guidance on record retention in relation to a variety of records created by employers under workers' compensation legislation.
- The **Permanent Student Record Order** requires school districts to retain a student's permanent student records for 55 years.

Record retention policies and practices should establish clear processes for identifying and securely destroying records that are no longer needed. However, records that may be needed for administrative, operational or legal purposes should be retained for as long as they are required.

In establishing a record retention plan, school districts should consider:

- Whether there is a legal, operational or business reason to retain a record;
- Whether the record is subject to a statutory retention period;
- Whether there is threatened or potential legal action, and, if so, whether the applicable limitation period has expired.