Order F23-49

THE BOARD OF EDUCATION OF SCHOOL DISTRICT 35 (LANGLEY)

Jay Fedorak
Adjudicator

June 20, 2023

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Summary: Parents of a student with special needs requested copies from the Board of Education of School District 35 (SD35) of records relating to their child's educational supports, accommodations, educational plans, educational assistance resources, connections program and any other communications between individuals they identified. SD35 disclosed some records but withheld information under s. 13(1) (advice and recommendations), s. 15(1)(l) (harm to the security of a system), and s. 22(1) (unreasonable invasion of third-party personal privacy). The adjudicator found that ss. 13(1) and 22(1) applied to some of the information but ordered SD35 to disclose the remainder. He found that ss. 15(1)(l) did not apply to any of the information and ordered SD35 to disclose it.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, ss. 13(1), 15(1)(l), 22(1), 22(2)(e), 22(2)(f), 22(2)(h), 22(3)(a), 22(3)(d), 22(3)(g), 22(4)(e).

INTRODUCTION

[1] Parents (applicants) of a student with special needs requested from the Board of Education of School District 35 (SD35) copies of records relating to their child's educational supports, accommodations, educational plans, educational assistance resources, connections program and any other communications between individuals they identified. SD35 disclosed some records and withheld some information under s. 13(1) (policy advice and recommendations), s. 15(1)(l) (harm to the security of a system) and s. 22 (unreasonable invasion of privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The applicants requested a review by the Office of the Information and Privacy Commissioner (OIPC). During mediation, SD35 disclosed additional

information to the applicants.

[3] Mediation did not resolve the outstanding issues and the applicants requested that the matter proceed to an inquiry.

ISSUES

[4] The issues to be decided in this inquiry are:

1. Whether s. 13(1) authorizes SD35 to withhold the information at issue.
2. Whether s. 15(1)(l) authorizes SD35 to withhold the information at issue.
3. Whether s. 22(1) requires SD35 to withhold the information at issue.

[5] Under s. 57(1), SD35 has the burden of proving that the applicants have no right of access to the information it withheld under ss. 13 and 15. Section 57(2) stipulates that the applicants have the burden to prove that disclosure would not be an unreasonable invasion of the personal privacy of a third party under s. 22(1).[1]

DISCUSSION

[6] **Background –** The parties do not provide any additional background information about the request or the circumstances relating to the creation of the records.

[7] **Records at issue –** The records responsive to the request consist largely of emails between the applicants and teachers and school officials and internal emails between teachers and school officials. The subject matter of the emails is the educational needs of the student, how SD35 can best meet those needs, and how to respond to the applicants' concerns. There are a total of 850 pages of records, but there are many duplicates (in some cases as many as 10) of the same records. Information has been withheld on 221 pages.

Section 13(1) – advice or recommendations

[8] Section 13(1) allows a public body to refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister to protect its deliberative processes.[2] The relevant provision reads as follows:

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[1] However, the public body has the initial burden to show that the information it is withholding under s. 22(1) is personal information: Order 03-41, 2003 BCIPC 49220 (CanLII), paras. 9-11.
[2] *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025, para 52.

> **13** (1) The head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.
>
> (2) The head of a public body must not refuse to disclose under subsection (1)
>
> (a) any factual material,
> …
>
> (3) Subsection (1) does not apply to information in a record that has been in existence for 10 or more years.

[9] The first step in the analysis is to determine whether disclosing the information at issue would reveal advice or recommendations under s. 13(1). If it would, the next step is to decide whether the information falls into any of the provisions in s. 13(2) or whether it has been in existence for more than 10 years in accordance with s. 13(3). If ss. 13(2) or 13(3) apply to any of the information, it cannot be withheld under s. 13(1).

Advice or Recommendations

[10] The term "advice" is broader than "recommendations" and includes "an opinion that involves exercising judgment and skill to weigh the significance of matters of fact" and "expert opinion on matters of fact on which a public body must make a decision for future action".[3] "Recommendations" include suggested courses of action that will ultimately be accepted or rejected by the person being advised.[4] Section 13(1) would also apply when disclosure would allow an individual to make accurate inferences about any advice or recommendations.

[11] SD35 submits that the correspondence between teachers and school officials in general constitutes an internal dialogue about the best means to meet the student's educational needs and the concerns of the applicants. SD35 describes the information withheld under s. 13(1) as follows:

> a) evaluations of student work;
> b) recommendations as to the appropriate level of work students are capable of performing;
> c) recommendations for strategies to support students;
> d) opinions and evaluations about the effectiveness of certain communications with parents;
> e) evaluations, opinions and recommendations about the merits of requests or suggestions made by the Parents;

[3] *John Doe v Ontario (Finance)* 2014 SCC 36 [John Doe], para 24. *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner),* 2002 BCCA 665, para. 113.
[4] John Doe supra note 6, para 23

f) recommendations for how to improve communications with parents.[5]

[12] SD35 does not elaborate on these descriptions and does not explain how s. 13(1) applies to particular passages. It relies on its contention that it is clear on the face of the records that these communications include advice and recommendations.[6]

[13] The applicants submit that public bodies should not sever information to avoid the embarrassment that occurs when employees make negative or disparaging remarks about individuals. They add that the stress caused by the implications of the Covid-19 pandemic is not an excuse for public body employees to neglect their professionalism or contravene their established standards of conduct.[7]

Analysis

[14] To meet its burden of proof, SD35 must go further than merely claiming that s. 13(1) applies. It must demonstrate how the exception applies to the specific information at issue. It must explain why the information at issue meets the definition of advice or recommendations. It has not done so. SD35 has merely claimed in general that the information at issue consists of advice or recommendations relating to a list of topics. It leaves the reader to infer what the matter under deliberation might be in each case.

[15] I have reviewed the information at issue to determine whether it is obvious on its face that it consists of advice or recommendations. There are passages where it is indeed obvious from the face of the record that the information constitutes advice or recommendations. These passages clearly relate to deliberative processes. It is clear in these cases that an employee is recommending a course of action or providing information that assists in a deliberative process. I find that s. 13(1) applies to the information in these passages.

[16] There are other passages, however, to which SD35 has applied s. 13(1), that do not reveal advice or recommendations. For s. 13(1) to apply, there must be a deliberative process for which someone is providing advice or recommendations. The following is a list describing information that SD35 has severed under s. 13(1) for which I find there is no indication of anyone providing advice or recommendations or having to deliberate on anything:

- Reasons why a student was assigned to a particular teacher.

[5] SD35's initial submission, para. 23.
[6] SD35's initial submission, paras. 23-25.
[7] Applicants' response submissions, pp. 1-2.

- Reasons why a staff member disagreed with a decision already made.
- Communication of a decision that had been made.
- A spontaneous opinion not related to any pending action or decision.
- Statements of fact about what had happened and what would happen.
- Reasons why a teacher is requesting guidance on an issue or had adopted a certain practice.
- Reasons why a teacher wanted not to do something.
- Request for advice on an issue or feedback on an opinion or a draft communication.
- One teacher expressing educational concerns that they do not know how to address.
- A prediction about what a student may do or how someone would react to something.
- Expression of uncertainty about how someone would react or whether something would happen.
- Statements about what a teacher would like to happen.
- A teacher inviting another teacher to respond to a statement.
- A teacher indicating that they do not have a strategy to resolve a problem.
- A statement concerning the workload of a teacher or the transfer of responsibility for something.
- A request for documentation of something.
- A statement that someone could not do something.
- A statement of concerns that a teacher had about something.
- A statement of what an administrator was doing about the concerns a teacher had expressed.
- A statement about what someone else had been doing, was doing or was going to do.
- A request that someone refrain from doing something.
- A statement that someone did not receive something.
- A statement that an administrator was willing to do something.
- A description of something that was missing.
- A statement that an employee was dissatisfied with a work issue.
- A statement that an employee was finding a work issue to be challenging.
- Statements about a problem with some staff members neglecting to comply with a policy.

[17] SD35 has the burden of proof to establish that each passage it has severed under s. 13(1) consists of advice or recommendations. There are passages for which it has not met this burden of proof and I find that s. 13(1) does not apply to this information.

[18] Therefore, in summary, I find that, SD35 has applied s. 13(1) correctly to some but not all of the information.

Section 13(2)

[19] The applicants did not raise any of the provisions in s. 13(2). It is not evident from face of the record that any of these provisions apply. Therefore, I find that s. 13(2) does not apply to any of the information.

Section 13(3) *Information in existence for more than 10 years*

[20] Finally, it is clear from the face of the records that none of the information has been in existence for more than 10 years, so I find that s. 13(3) does not apply.

Conclusion, s. 13

[21] In conclusion, I confirm the decision of SD35 to withhold some information under s. 13(1). I find, however, that SD35 is not authorized under s. 13(1) to withhold other information. I have highlighted the information that SD35 may refuse to disclose under s. 13(1) in a copy of the records which is provided to SD35 along with this order. It must disclose all information on all of the 850 pages of responsive records, except the passages that I have marked in yellow on the pages I provide.

Section 15(1) – harm to law enforcement

[22] The relevant provision of s. 15(1) is as follows:

> **15** (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to
> **…**
>
> (l) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

[23] To rely on s. 15(1)(l), SD35 must establish that disclosure of the information could reasonably be expected to harm the security of a property or system. The "reasonable expectation of harm" standard is "a middle ground between that which is probable and that which is merely possible."[8] There is no need to show on a balance of probabilities that the harm will occur if the information is disclosed, but the public body must show that the risk of harm is

[8] *Merck Frosst Canada Ltd. v. Canada (Health),* 2012 SCC 3, para. 201.

well beyond the merely possible or speculative.[9]

[24] SD35 indicates that the information at issue under s. 15(1)(l) consists of a credentials to enable employees to access electronic systems. It submits that previous orders F15-32 and F17-23 have found that disclosure of this type of information could assist unauthorized individuals to access secure systems.[10] The applicants make no comment with respect to the application of s. 15(1)(l).

Analysis

[25] It is not sufficient for SD35 merely to claim that s. 15(1)(l) applies. It must demonstrate how the exception applies to the specific information at issue. It must establish a direct connection between the disclosure of that information and the harm it envisages. SD35 must provide sufficient explanation and evidence (including, but not limited to, examples) to demonstrate that the risk of harm does indeed meet the required standard.

[26] In Orders F15-32 and F17-23, the public bodies provided affidavits from information technology experts that explained how the information at issue could enable an unauthorized third party to infiltrate the systems. The adjudicators found that they had sufficient evidence before them to find that s. 15(1)(l) applied.

[27] In this case, SD35 has merely claimed that there is a risk of harm, without substantiating that claim. It has provided no affidavit evidence or explanation as to how third parties could harm the security of the system. One of the passages to which SD35 has applied s. 15(1)(l) consists of the login credentials for a web-based streaming program that reads aloud stored pdf documents. One teacher is giving the credentials to another teacher to use the program. The teacher indicates that all of the teachers and students at the school can use the same credentials to access the program.[11] This communication is three years old. SD35 does not indicate whether it continues to use the program and whether the credentials listed are still active. SD35 has not indicated how disclosure of the credentials would undermine the security of the system, especially give that innumerable teachers and students are already using the same credentials.

[28] SD35 has also applied s. 15(1)(l) to information about access to its meeting system. Nevertheless, it has not demonstrated whether its meeting system operates in the same way as those described in Orders F15-32 or F17-23. It is not enough for SD35 to make a bald statement about the application of an exception and make a brief reference to other orders, without offering

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[9] *Ibid*, para. 206. See also *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31, paras. 52-54.
[10] SD35's initial submission, para. 54; Order F15-32, 2015 BCIPC 35 (CanLII); Order F17-23, 2017 BCIPC 24 (CanLII).
[11] Responsive Records, p. 506.

evidence or explanation as to how the security concerns apply in this case. In addition, the records are three years old and SD35 has not confirmed whether the credentials identified in the records are still being used.

[29] Therefore, I find that SD35 has failed to meet its burden of proof with respect to the application of s. 15(1)(l) and it is not authorized to withhold the information.

Section 22(1) – unreasonable invasion of third-party privacy

[30] The proper approach to the application of s. 22(1) of FIPPA is described in Order F15-03, where the adjudicator stated the following:

> This section only applies to "personal information" as defined by FIPPA. Section 22(4) lists circumstances where s. 22 does not apply because disclosure would not be an unreasonable invasion of personal privacy. If s. 22(4) does not apply, s. 22(3) specifies information for which disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. However, this presumption can be rebutted. Whether s. 22(3) applies or not, the public body must consider all relevant circumstances, including those listed in s. 22(2), to determine whether disclosing the personal information would be an unreasonable invasion of a third party's personal privacy.[12]

[31] I have taken the same approach in considering the application of s. 22(1) here.

Step 1: Is the information "personal information"?

[32] Under FIPPA, "personal information" is recorded information about an identifiable individual, other than contact information. "Contact information" is "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."[13]

[33] SD35 submits that the information it has withheld under s. 22(1) consists of the personal information of individuals other than the applicants or their child. It describes the personal information as follows :

1. Staff Information, comprising personal information about the Staff and their personal feelings, experiences at work, anxieties, frustrations and other stressors;
2. Personal Information of students other than the child of the applicants, including information about their educational needs, special needs,

[12] Order F15-03, 2015 BCIPC 3 (CanLII), para. 58.
[13] FIPPA provides definitions of key terms in Schedule 1.

academic progress, programs and areas of study and other educational information;

3. Miscellaneous personal information about of [sic] other School District employees or other parents or third parties, including information such [sic] illness, medical information, child care needs, employment history information and personal contact information exchanged in order to communicate during the pandemic.[14]

[34] The applicants do not contest SD35's assertion that this information constitutes personal information.

[35] I can confirm that the information to which SD35 has applied s. 22(1) constitutes recorded information about identifiable individuals other than contact information. Therefore, I find that it meets the definition of personal information.

Step 2: Does s. 22(4) apply?

[36] The relevant provision is s. 22(4)(e) which reads as follows:

> **22** (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if
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> …
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> (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff,

[37] SD35 submits that s. 22(4) does not apply to any of the personal information at issue. The applicants do not contest this point.

[38] Nevertheless, I find that s. 22(4)(e) applies to a large portion of the personal information because it is about a third party's position, functions or remuneration as an employee of a public body. The personal information about themselves that employees of public bodies include in records that they create during the normal course of business constitutes information about their position and functions. The only exceptions are where such information constitutes the employment history of the individual or where the personal information is unrelated to the performance of their official duties. Most of the information about its employees during the performance of their duties to which SD35 has applied s. 22(1) does not constitute employment history. Therefore, it is information about the employee's position and functions. I find that s. 22(4)(e) applies to this information. Given that s. 22(4)(e) applies, it is not an unreasonable invasion of privacy to disclose that information.

[14] This is a direct quote from SD35's initial submission, para. 32.

Step 3: Does s. 22(3) apply?

[39] SD35 submits that s. 22(3)(a) and (d) apply. I also find s. 22(3)(g) is relevant to consider. Those provisions read as follows:

> **22** (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if:
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> (a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
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> (d) the personal information relates to employment, occupational or educational history.
>
> (g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations about the third party,

[40] **Section 22(3)(a) (medical history) –** SD35 submits that some of the information at issue consists of medical information of named individuals and relatives of named individuals. The applicants make no submission with respect to the application of s. 22(3)(a).

[41] It is obvious from the face of the record that some of the information clearly constitutes the medical information of identifiable employees and other individuals. I find that s. 22(3)(a) applies to this information and disclosure is presumed to be an unreasonable invasion of privacy.

[42] **Section 22(3)(d) (education and employment history) –** SD35 submits that some of the information to which it applied s. 22(1) constitutes student educational history and staff employment history.[15] It characterizes this information as follows in a passage quoted directly:

- the personal feelings, anxieties, frustrations and stressors of individual employees in relation to their employment;
- information about employee absences or departures;
- information about employee performance, including self evaluations;
- allegations made by or about an employee in connection with their employment;
- educational history information of other students;
- academic performance information of other students.[16]

[15] SD35's initial submission, para. 18.
[16] SD35's initial submission, para. 46.

[43] The applicants do not contest the application of s. 22(3)(d), other than to state that public bodies should not sever information to avoid the embarrassment that occurs when employees make negative or disparaging remarks about individuals.

[44] It is evident on the face of the record that some of the information about SD35 employees constitutes their employment history. This includes records showing their absences, departures and promotions. I find that s. 22(3)(d) applies to this information and disclosure is presumed to be an unreasonable invasion of privacy.

[45] It is also evident on the face of the record that some of the information concerns the educational history of students other than the applicants' child. I find that s. 22(3)(d) applies to this information and disclosure is presumed to be an unreasonable invasion of privacy.

[46] It is necessary to distinguish between information that constitutes employment history under s. 22(3)(d) from information about the position and functions of an employee of a public body under s. 22(4)(e). Previous orders have found that the routine work of public body employees does not constitute employment history under s. 22(3)(d), except when that information was collected as part of a workplace investigation.[17] There is some information to which SD35 applied s. 22(3)(d) where I can see that there was no workplace investigation or any other circumstance that would warrant a finding that this information constitutes employment history. For that reason, I find s. 22(4)(e) applies, not s. 22(3)(d).

[47] In addition, SD35 argues that personal information about the personal feelings, anxieties, frustrations and stressors of individual employees in relation to their employment constitutes their employment history and it cites four previous orders in support of its argument. However, none of these orders actually support SD35's argument. Three of the four orders that it cites in support of this argument (Order F21-28; Order 08-04; Order F16-47) are about personal information relating to workplace investigations or workplace incidents and these were the determining factors.[18] In the present case, there were no workplace investigations or workplace incidents. In the other order, Order F19-27, SD35 is incorrect in concluding that the adjudicator found that personal comments by

[17] See for example, Order F21-08, 2021 BCIPC 12 (CanLII), para. 129; Order F17-01, 2017 BCIPC 1 (CanLII), para. 53; Order 00-53, 2000 BCIPC 14418 (CanLII); Order 01-53, 2001 BCIPC 21607 (CanLII); and Order F05-32, 2005 BCIPC 39586 (CanLII).
[18] Order F21-28, 2021 BCIPC 36 (CanLII); Order F08-04, 2008 BCIPC 13322 (CanLII); Order F16-47, 2016 BCIPC 52 (CanLII), paras. 32-35.

employees about their feelings, anxieties or frustrations constituted their employment history in accordance with s. 22(3)(d).[19]

[48] I find that s. 22(3)(d) does not apply to the personal feelings, anxieties, frustrations and stressors of individual employees in relation to their employment in this case because there were no workplace investigations or workplace incidents.

[49] **Section 22(3)(g) (personal evaluations) –** While neither of the parties has raised the application of s. 22(3)(g), I find that some of the disputed information is employees' evaluations of other employees. It is clear on the face of the record that this information constitutes personal evaluations. I find that s. 22(3)(g) applies to this information and disclosure is presumed to be an unreasonable invasion of privacy.

Step 4: do the relevant circumstances in s. 22(2) rebut the presumption of unreasonable invasion of privacy?

[50] The relevant provisions read as follows:

> **22** (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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> …
>
> (e) the third party will be exposed unfairly to financial or other harm,
>
> (f) the personal information has been supplied in confidence,
>
> …
>
> (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant,

[51] **Section 22(2)(e) (unfair harm) –** SD35 submits that disclosure of some of the information could cause reputational and other harms by contributing to stress, anxiety or potential conflicts with third parties. SD35 does not identity the information to which this concern relates, nor does it explain why the disclosure of this information would cause stress, anxiety, personal conflicts or reputational harm. SD35 does not elaborate on the level of stress or anxiety that may result or explain why it would meet the threshold of unfair harm. These concerns are not evident on the face of the record. I also note that SD35 has not indicated whether the teachers at issue continue to have a professional relationship with the applicants and their child. Given the passage of time since the records were

[19] Order F19-27, 2019 BCIPC 29 (CanLII), para 48. At para. 48, the adjudicator found only that this type of information constituted personal information. Where the adjudicator made a finding with respect to s. 22(3)(d) at para. 54, she mentions that this provision applied only to the nursing licence numbers of clinical instructors.

created, there is a question as to whether these concerns would remain relevant.

[52] Therefore, I find that s. 22(2)(e) is not a relevant consideration.

[53] **Section 22(2)(f) (supplied in confidence) –** SD35 submits that it receives and holds information about students in confidence. It identifies that the *School Act*[20] requires it to keep this information confidential. I agree that the information about students other than the child of the applicants was supplied to SD35 in confidence.

[54] Therefore, I find the information about other students to be supplied in confidence in accordance with s. 22(2)(f) and that this is a relevant consideration favouring withholding the information.

[55] **Section 22(2)(h) –** SD35 submits that disclosure of some of the information about teachers relating to their workload, professional anxieties and stress or where they made personal admissions about their frustrations at work would damage their reputations. SD35 has not explained how the disclosure would damage anyone's reputation or how the level of harm would meet the threshold of unfair harm. It is not evident on the face of the record that disclosure would damage anyone's reputation.

[56] Therefore, I find that s. 22(2)(h) does not apply to the information at issue and it is not a relevant consideration.

[57] **Other considerations –** Some of the passages in the records reveal the mental state and emotional well-being of the employees as individuals, as opposed to their professional opinions. The concerns expressed do not reach the extent to where they could qualify as mental health information in accordance with s. 22(3)(a) but it is analogous to medical history. It is information about the employees distinctly as individuals, rather than as professionals. It is evident from the face of the record that this information is intensely personal and does not reflect on the subject matter or performance of their duties.

[58] Therefore, I find this to be a relevant consideration favouring withholding this personal information.

[59] I am not able to identify any other relevant circumstances that apply.

Conclusion on s. 22(1)

[60] I found above that some of the information in dispute is personal information. I have found that s. 22(4)(e) applies to information about SD35

[20] RSBC 1996, c 12.

employees in the performance of their official duties that does not constitute their employment history. Therefore, s. 22(1) does not apply to that information.

[61] I have found that the records at issue contain information relating to the medical history of employees and other individuals and that disclosure is presumed to be an unreasonable invasion of their personal privacy under s. 22(3)(a). I have found that some of the information about SD35 employees constitutes their employment history under s. 22(3)(d). I have found that some of the information about students other than the applicants' child constitutes their educational history under s. 22(3)(d). The disclosure of this information is also presumed to be an unreasonable invasion of privacy.

[62] I find that there are no relevant circumstances that support disclosing the information. Therefore, there are no relevant circumstances in this case that rebut the presumptions that disclosure would be an unreasonable invasion of the third parties' personal privacy. I find that some of the personal information about the mental state and well being of employees is intensely personal. This is a relevant circumstance favouring withholding this information.

[63] I also find that the applicants did not make a case that disclosure of the personal information of the third parties would not be an unreasonable invasion of privacy of the third party. The burden of proof lies with the applicants on this issue, and they have not met their burden of proof.

[64] In conclusion, I find that s. 22(1) applies to only some of the information that SD35 refused to disclose under that exception. I have highlighted the information that SD35 must refuse to disclose under s. 22(1) in a copy of the records which is provided to SD35 along with this order. It must disclose all information on all of the 850 pages of responsive records, except the passages that I have marked in yellow on the pages I provide.

CONCLUSION

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

1. I confirm in part the decision of SD35 to withhold information under s. 13(1). I have highlighted the information that SD35 may refuse to disclose under s. 13(1) in a copy of the records which is provided to SD35 along with this order. It must disclose any information not marked in yellow on all of the 850 pages of responsive records, except the passages that I have marked in yellow on the pages I provide.

2. Section 15(1)(l) does not authorize SD35 to withhold the information at issue and SD35 must give the applicant access to the information to which it applied s. 15(1)(l).

3. I require SD35 to refuse access, under s. 22(1), to part of the personal information it withheld under s. 22(1). I have highlighted the information that SD35 must refuse to disclose under s. 22(1) in a copy of the records which is provided to SD35 along with this order. It must disclose any information not marked in yellow on all of the 850 pages of responsive records, except the passages that I have marked in yellow on the pages I provide.

4. SD35 must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicants, together with a copy of the pages containing the information that it must disclose.

[66] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by August 2, 2023.

June 20, 2023

ORIGINAL SIGNED BY

Jay Fedorak, Adjudicator

OIPC File No.: F20-84254