



Order F26-10

## MINISTRY OF EDUCATION AND CHILD CARE

Carol Pakkala  
Adjudicator

February 10, 2026

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**Summary:** An applicant requested access, under the *Freedom of Information and Protection of Privacy Act* (FIPPA), to records related to an investigation of a teacher. The Ministry of Education and Child Care (Ministry) refused access to some information under ss. 13 (advice or recommendations), 14 (solicitor client privilege), and 22 (unreasonable invasion of a third party's personal privacy) of FIPPA. The Ministry later said that FIPPA did not apply to the responsive records because of ss. 61(2)(a) and (c) of the *Administrative Tribunals Act* (ATA). The adjudicator found that ss. 61(2)(a) and (c) of the ATA applied to some records, so FIPPA did not. The adjudicator also found that s. 25(1)(b) (public interest disclosure) does not require the Ministry to disclose the records without delay. The adjudicator confirmed the Ministry's decision to refuse access to all of the information withheld under s. 14 and to some of the information withheld under s. 22 of FIPPA. The adjudicator ordered the Ministry to give the applicant access to the information it was not required to refuse to disclose.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act, RSBC 1996, c. 165, ss. 13(1), 14, 22(1), 22(2)(a), 22(3)(d), 22(4)(a), 22(4)(e), and 25(1)(b); Administrative Tribunals Act, SBC 2004, c. 45, ss. 36, 61(1), 61(2)(a), and 61(2)(c); Teachers Act, SBC 2011, c. 19, ss. 1, 2, 3, 41(1)(f), 41(2)(c), and 45(3).*

## INTRODUCTION

[1] A parent (applicant) made a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to the Ministry of Education and Child Care (Ministry). The request was for access to information related to the applicant's complaint (Complaint) about her child's teacher (Teacher). Ministry staff conducted an investigation of the Complaint on behalf of the Commissioner for Teacher Regulation (Teachers' Commissioner).

[2] The Ministry refused to give access to some information under ss. 13(1) (advice or recommendations), 14 (solicitor client privilege), and 22(1) (unreasonable invasion of third party personal privacy) of FIPPA.<sup>1</sup>

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Ministry's decision. The OIPC's investigation and mediation process did not resolve the issues, and the matter proceeded to this inquiry. Both parties provided submissions in this inquiry.

## **Preliminary Matters**

### *Appropriate persons*

[4] Section 54(b) allows for "appropriate persons" to be invited to participate in the inquiry process. The access request at issue in this inquiry is for the Complaint file. The Complaint is about the Teacher's interactions with a student (Student). For that reason, I identified the Teacher and Student as "appropriate persons".

[5] I directed OIPC's Registrar of Inquiries (Registrar) to contact the Teacher and Student to see if they wished to participate in this inquiry.<sup>2</sup> Neither indicated they wished to participate.

### *New Issues*

[6] Both parties made requests in their initial submissions to add issues not listed in the Notice of Inquiry. The Ministry sought to add ss. 61(2)(a) and (c) of the *Administrative Tribunals Act* (ATA) and the applicant, s. 25 of FIPPA.

[7] I wrote to the parties and asked for their respective positions on the addition of the new issues. After reviewing their submissions, I decided it was appropriate to add these issues to this inquiry.<sup>3</sup>

[8] The applicant requested a lengthy adjournment to retain legal counsel to assist with the additional submissions. The Ministry consented to this adjournment.

[9] The Registrar set a schedule for additional submissions on the new issues. Both parties provided additional submissions in accordance with that schedule.

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<sup>1</sup> From this point forward, unless otherwise specified, where I refer to section numbers, I am referring to sections of FIPPA.

<sup>2</sup> Registrar's email dated October 2, 2025.

<sup>3</sup> Adjudicator's decision letter to the parties dated September 11, 2025.

[10] In her reply to the Ministry's additional submissions, the applicant says she objects to the Ministry having the opportunity to reply to her submission, saying it is procedurally unfair. I disagree.

[11] The OIPC's standard inquiry practice is to have public bodies make an initial submission, followed by the applicant's submission, and then the public body's reply. I see no reason to alter that process for the new issues. Further, I see no prejudice to the applicant in following the OIPC's established process.

*Section 14 records not provided*

[12] The Ministry did not provide the OIPC with a copy of the records or parts of records withheld under s. 14. The OIPC has the power pursuant to s. 44(1) to order production of records over which solicitor client privilege is claimed. However, given the importance of solicitor client privilege, and in order to minimally infringe on that privilege, the OIPC will only do so when absolutely necessary to fairly decide the issues.<sup>4</sup>

[13] In support of its s. 14 claim, the Ministry provided affidavit evidence from one of its lawyers (Lawyer) with direct personal knowledge of the communications contained in the records. The Ministry also provided an affidavit from its director (Director).<sup>5</sup> Finally, the Ministry also provided a table of records describing the information at issue (Table of Records).

[14] Based on the information before me, I am satisfied that I have sufficient evidence to decide if s. 14 applies. For that reason, I decided it was unnecessary to order production of the records.

*Matters outside the scope of this inquiry*

[15] The applicant provided voluminous submissions devoted to a critique of the system of teacher regulation in British Columbia (BC).<sup>6</sup> While I have read these submissions in their entirety, much of them are unrelated to the FIPPA issues I must decide in this inquiry. For that reason, they are outside of my jurisdiction.

[16] In this order, I will refer only to those portions of the applicant's submissions that are relevant to the FIPPA issues.

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<sup>4</sup> Order F19-14, 2019 BCIPC 16 at para 10; *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, 2008 SCC 44 at para 17; *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53 at para 68.

<sup>5</sup> Director Professional Conduct, Professional Conduct Unit of the Ministry's Teacher Regulation Branch (Director).

<sup>6</sup> For example, the applicant says this system encourages "the protection of harmful adults who have easy access to children, by limiting the access to justice options", applicant's submission at para 5.

## ISSUES AND BURDEN OF PROOF

[17] The issues I must decide in this inquiry are as follows:

1. Is any of the information in dispute outside the scope of FIPPA due to ss. 61(2)(a) or (c) of the ATA?
2. Does s. 25(1)(b) require the Ministry to disclose the information in dispute without delay?
3. If any of the information is within the scope of FIPPA, and s. 25(1)(b) does not apply to it, is the Ministry authorized or required to refuse access to any of it under ss. 13(1), 14, or 22(1)?

[18] There is no statutory burden of proof with respect to the application of s. 61 of the ATA or s. 25 of FIPPA. Where there is no clear burden, previous orders have indicated that it is in the interests of both parties to provide the adjudicator with evidence and argument supporting their positions.<sup>7</sup> I will apply that same approach here.

[19] Section 57(1) places the burden on the Ministry to prove an applicant has no right of access to a record or part of a record withheld under ss. 13 or 14.

[20] The applicant has the burden of proving that disclosure of personal information the Ministry has withheld under s. 22 would not be an unreasonable invasion of a third party's personal privacy.<sup>8</sup> The Ministry, however, bears the initial burden of proving the information at issue under s. 22 is personal information.<sup>9</sup>

## DISCUSSION

### Background<sup>10</sup>

[21] The Ministry is the public body responsible, under the *Teachers Act*,<sup>11</sup> for the education of school aged children (grades K-12) in the province of BC. The Ministry's Teacher Regulation Branch (TRB) provides operational support and regulatory structure for the teaching profession.

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<sup>7</sup> For the ATA, see for example Order F22-41, 2022 BCIPC 46 (CanLII); Order F10-41, 2010 BCIPC 61 (CanLII); Order F18-02, 2018 BCIPC 2. For s. 25, see for example: Order 02-38, 2002 BCIPC 38 (CanLII) and Order F07-23, 2007 BCIPC 38 (CanLII).

<sup>8</sup> FIPPA, s. 57(2).

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

<sup>10</sup> These background facts come from the submissions of both parties and are not in dispute.

<sup>11</sup> SBC 2011, c. 19.

[22] The TRB supports the work of the Teachers' Commissioner, who oversees the discipline process for certified educators in BC.<sup>12</sup> The Teachers' Commissioner is an independent statutory decision maker authorized under the *Teachers Act* to address concerns about teacher competence and conduct. TRB's investigators operate under powers and duties delegated to them by the Teachers' Commissioner.<sup>13</sup>

[23] The applicant is a parent who filed the Complaint with the TRB about the Teacher. The applicant provides a copy of the Complaint in this inquiry. The Complaint alleges the Teacher failed to follow the individual education plan for the Student.<sup>14</sup> Ultimately, the Teachers' Commissioner determined that no further action would be taken with respect to the Complaint.<sup>15</sup>

[24] The applicant made her FIPPA access request specifically for the Complaint file.<sup>16</sup> The responsive records relate to the investigation and outcome of the Complaint.<sup>17</sup>

### **Records in dispute**

[25] The responsive records total 282 pages consisting of emails, forms, memos, letters and a process document. Approximately 166 of those pages are in dispute, and they have all been completely withheld.<sup>18</sup>

### ***Outside the scope of FIPPA, s. 61 ATA***

[26] The Ministry relies on s. 61 of the ATA to withhold approximately 96 pages of the records as outside the scope of FIPPA.

[27] The relevant portions of s. 61 of the ATA provide as follows:

61 (1) In this section, "decision maker" includes a tribunal member, adjudicator, registrar or other officer who makes a decision in an application or an interim or preliminary matter, or a person who conducts a facilitated settlement process.

(2) The *Freedom of Information and Protection of Privacy Act*, other than section 44 (1) (b), (2), (2.1) and (3), does not apply to any of the following:

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<sup>12</sup> Director's affidavit at para 2.

<sup>13</sup> *Teachers Act*, s. 3 (Commissioner's power to delegate).

<sup>14</sup> Attachment to applicant's submission, p. 30.

<sup>15</sup> Responsive records, pp. 166 and 169.

<sup>16</sup> The Complaint file number is specified in the access request, and it corresponds to the file number that appears throughout the records.

<sup>17</sup> Director's affidavit at para 14.

<sup>18</sup> Table of Records, attached to the Ministry's initial submission.

(a) a personal note, communication or draft decision of a decision maker;

...

(c) any information received by the tribunal in a hearing or part of a hearing from which the public, a party or an intervener was excluded;

...

[28] Sections 44(1)(b), (2), (2.1) and (3) of FIPPA, referenced in s. 61(2) of the ATA above, set out the OIPC commissioner’s investigation, audit and inquiry powers.

[29] The Teachers’ Commissioner is appointed under the *Teachers Act*.<sup>19</sup> Sections 41(1)(f) and 41(2)(c) of the *Teachers Act* expressly say that s. 61 of the ATA applies to the Teachers’ Commissioner.

[30] Consistent with previous orders, and with ss. 41(1)(f) and 41(2)(c) of the *Teacher’s Act*, the Teachers’ Commissioner is included in the non-exhaustive definition of “decision maker” in s. 61(1) of the ATA.<sup>20</sup> Therefore, the only question to answer is whether any of the withheld information fits within the categories listed in ss. 61(2)(a) or (c).

Personal note, communication or draft decision of a decision maker - s. 61(2)(a) ATA

[31] Section 61(2)(a) codifies the common law principle of deliberative secrecy.<sup>21</sup> Deliberative secrecy is meant to prevent disclosure of how and why decision makers make their decisions.<sup>22</sup> This principle also extends to the administrative aspects of the decision-making process.<sup>23</sup>

*Parties’ submissions, s. 61(2)(a) ATA*

[32] The Ministry says the information at issue under the ATA was received by the Commissioner in the course of his duties under ss. 44 and 45 of the *Teachers Act*.<sup>24</sup> The Ministry identifies the specific pages to which it says s. 61(2)(a) of the ATA applies.<sup>25</sup>

<sup>19</sup> *Teachers Act*, s. 1 (definition of “commissioner”) and s. 2 (appointment of commissioner).

<sup>20</sup> Order F24-59, 2024 BCIPC 69 (CanLII) at para 25 and Order F18-02, 2018 BCIPC 02 (CanLII) at para 22.

<sup>21</sup> Order F24-14, 2024 BCIPC 20 at para 30.

<sup>22</sup> *Ibid* at para 30, citing *Cherubini Metal Works Ltd. v. Nova Scotia (Attorney General)*, 200 NSCA 37 at para 14.

<sup>23</sup> *Ibid*, citing *MacKeigan v. Hickman*, 1989 CanLII 40 (SCC), [1989] 2 S.C.R. 796 per McLachlin J (as she then was) at pp. 831-833.

<sup>24</sup> Ministry’s initial submission at para 23.

<sup>25</sup> Records, pp. 28, 29, 42, 43, 102 to 105, 216, 217, 241 to 245, 270, 273, and 274.

[33] The Ministry says the pages withheld under s. 61(2)(a) of the ATA are the personal notes and communications of the Teachers' Commissioner.<sup>26</sup> Specifically, the Ministry says these pages are analogous to the records described in a previous order and are therefore outside the scope of FIPPA.<sup>27</sup>

[34] The applicant disagrees with any information related to her child being outside the scope of FIPPA.<sup>28</sup> The applicant says it is not in anyone's best interest to apply s. 61 of the ATA because of "the toxic and untrustworthy history of regulating teachers and the conflict of interest that the Ministry of Education has with this process."<sup>29</sup>

[35] The applicant says excluding records from the scope of FIPPA disproportionately shields the teachers' regulation decision making body from transparency and democratic accountability.<sup>30</sup>

*Analysis, s. 61(2)(a) ATA*

[36] Section 61(2) of the ATA clearly provides for some insulation from FIPPA's right of access to records. In my view, in passing this section of the ATA, the Legislature turned its mind to what type of records are properly excluded from the scope of FIPPA.

[37] I understand the applicant to be saying she disagrees with the choice made by the Legislature. My role, however, is to apply the law that is in place, not to consider its validity.

[38] Previous orders have considered the application of s. 61(2)(a) of the ATA to records of the Teachers' Commissioner. The information found to be excluded from the scope of FIPPA under this section includes:

- forms and memos recording the details of a complaint investigation;<sup>31</sup>
- handwritten notes communicating the outcome of an investigation;<sup>32</sup>
- forms sent on behalf of the Teachers' Commissioner to legal counsel related to an investigation;<sup>33</sup>
- records containing instructions the Teachers' Commissioner communicated to Ministry staff for an investigation.<sup>34</sup>

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<sup>26</sup> Ministry's additional submission at para 18.

<sup>27</sup> *Ibid* at para 23, referencing Order F18-02, 2018 BCIPC 2 (CanLII).

<sup>28</sup> Applicant's submission at para 42.

<sup>29</sup> Applicant's additional submission at para 4.

<sup>30</sup> *Ibid* at para 5.

<sup>31</sup> Order F18-02, 2018 BCIPC 2 (CanLII).

<sup>32</sup> *Ibid*.

<sup>33</sup> Order F24-59, 2024 BCIPC 69 (CanLII).

<sup>34</sup> *Ibid*.

[39] In the present case, the records at issue under s. 61(2)(a) of the ATA include records I can see and records I cannot see because the Ministry did not provide them in this inquiry. For the records I can see, the information is similar to the records described above. This information includes forms, memos, and emails recording the details and outcome of the Teachers' Commissioner's investigation of the Complaint.<sup>35</sup>

[40] I am satisfied that the records that I can see are personal notes and communications of a decision maker. I am further satisfied they are about the decision-making process for the Complaint. I find that the common law principle of deliberative secrecy applies to them. For these reasons, I find that s. 61(2)(a) of the ATA applies to exclude these records from the scope of FIPPA and I will not consider them further.

[41] For the records I cannot see, the Ministry says that s. 14 also applies to them.<sup>36</sup> The evidence I have before me about these records describes them only as "communications between the Ministry's lawyer and the Ministry."<sup>37</sup>

[42] I find that the evidence about the records I cannot see is insufficient to establish they are a personal note, communication or draft decision of the Teachers' Commissioner. For this reason, I find s. 61(2)(a) of the ATA does not apply to them.<sup>38</sup> The Ministry also applied s. 14 to these records, so I will consider them further in the s. 14 analysis below.

Information received by the tribunal in a hearing or part of a hearing  
from which the public, a party or an intervener was excluded – s.  
61(2)(c) ATA

[43] One of the purposes of the ATA is to enable administrative tribunals to conduct their proceedings, and make decisions, with a certain degree of flexibility while insulated from FIPPA's right of access provisions.<sup>39</sup> To that end, s. 61(2)(c) of the ATA protects information submitted to a tribunal "hearing" in private.<sup>40</sup>

[44] A "hearing" under s. 61(2)(c) of the ATA can include a hearing convened to determine a preliminary matter such as, for example, the admissibility of evidence.<sup>41</sup>

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<sup>35</sup> Records, pp. 105, 216-17, 241-45, and 264-71.

<sup>36</sup> Records, pp. 28-29, 42-43, and 273-74.

<sup>37</sup> Lawyer's affidavit at paras 5-6.

<sup>38</sup> The Ministry did not apply s. 61(2)(c) of the ATA to these records.

<sup>39</sup> Order F15-06, 2015 BCIPC 6 at para 21.

<sup>40</sup> *Ibid* at para 17.

<sup>41</sup> Order F15-06, 2015 BCIPC 6 at para 22.

[45] Previous orders have established a three-part test for the application of s. 61(2)(c) of the ATA.<sup>42</sup> The first part is that the body receiving the information must be a tribunal. The second part is that the tribunal must have received the information as part of a hearing. The third part is that the public, a party or an intervenor were excluded from the hearing when the information was received.

*Parties' submissions, s. 61(2)(c) ATA*

[46] The Ministry identifies the specific pages to which it says s. 61(2)(c) of the ATA applies.<sup>43</sup> The Ministry says the applicant only requested records held by the Teachers' Commissioner related to the Complaint.<sup>44</sup> The Ministry further says that the responsive records relate to the preliminary review and disposition of the Complaint.

[47] The Ministry says, by virtue of s. 36 of the ATA, the meaning of "hearing" in s. 61(2)(c) of the ATA includes the disposition of preliminary matters.<sup>45</sup> The Ministry further says the information withheld under s. 61(2)(c) of the ATA was not provided to the applicant during the Teachers' Commissioner's preliminary review and disposition of the Complaint. On that basis, the Ministry says the applicant was "excluded" from the "hearing" by the tribunal.

[48] The applicant says s. 61 of the ATA does not apply to the documents submitted by the Teacher or by the Teacher's lawyer.<sup>46</sup> The applicant further says she wants to know how the Teachers' Commissioner came to its decision and if there was a thorough investigation.<sup>47</sup>

*Analysis, s. 61(2)(c) ATA*

[49] I already found above that the Teachers' Commissioner is a tribunal for the purposes of the ATA. I therefore find that the first part of the three-part test is met.

Was the information received by the tribunal in a hearing?

[50] The second part of the test under s. 61(2)(c) of the ATA is whether the information was received by the Teachers' Commissioner in a hearing. The term "hearing" is not defined in the ATA, but s. 36 provides that "In an application or an interim or preliminary matter, the tribunal may hold any combination of written,

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<sup>42</sup> F24-50, 2024 BCIPC 58 (CanLII) at para 20 citing for example or example, Order F22-41, 2022 BCIPC 46 (CanLII) and F24-14, 2024 BCIPC 20 (CanLII).

<sup>43</sup> Records, pp. 44 to 78, 118, 194 to 196, 219 to 229, 232 to 234, 236 to 240, 246 to 262, and 264 to 289.

<sup>44</sup> Ministry's additional submission at para 25.

<sup>45</sup> *Ibid* at paras 28 to 32.

<sup>46</sup> Applicant's additional submission at para 8.

<sup>47</sup> *Ibid* at para 22.

electronic and oral hearings.” A “hearing” in the administrative tribunal context can therefore mean both oral and written hearings.

[51] Under s. 44 of the *Teachers Act*, the Teachers’ Commissioner must conduct a preliminary review of all complaints. This preliminary review leads to a decision on how to dispose of the complaint under s. 45 of the *Teachers Act*. In other words, the preliminary review is a mandatory requirement for the resolution of any complaint file. In my view, this “preliminary review” constitutes a written hearing on a preliminary matter to determine the next steps in handling a particular complaint.

[52] I can see that, with one exception, the information at issue under s. 61(2)(c) of the ATA was written information received by the Teachers’ Commissioner in the preliminary review of the Complaint. I am satisfied this information was received in a hearing.

[53] The one exception is a process document described by the Ministry in the Table of Records as “Commissioner for Teacher Regulation Summary of Discipline Process”.<sup>48</sup> I cannot see, and the Ministry does not say, how this document was received by the Teachers’ Commissioner in a hearing.

[54] From the title of the process document, it looks to me to be authored, not received, by the Teachers’ Commissioner. For that reason, the process document fails to meet the second step of the test for the application of s. 61(2)(c) of the ATA.<sup>49</sup>

[55] The Ministry also withheld the process document under s. 22(1) of FIPPA. I see no reason to re-visit it below because it is clear to me that it is not about an identifiable individual. For that reason, it is not personal information, and s. 22(1) does not apply. The Ministry is therefore not required to withhold this document under s. 22(1).

The public, a party or an intervenor were excluded from the hearing when the information was received

[56] I found above that the information was received by the Teachers’ Commissioner at a hearing. Therefore, the last part of the s. 61(2)(c) of the ATA test is whether the public, a party or an intervenor was excluded from the hearing when the information was received. From the evidence before me, and for the reasons that follow, I am satisfied that this third part of the test is met.

[57] There is nothing in the materials in this inquiry to suggest that either party, the public, or any intervenor was present when the Teachers’ Commissioner

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<sup>48</sup> Records, pp. 14-15 and 77-78.

<sup>49</sup> The Ministry did not apply s. 61(2)(a) of the ATA to this document.

conducted the preliminary review. Therefore, I am satisfied the Teachers' Commissioner received the information at a hearing in which the public, a party, and any intervenors were excluded. This information is therefore outside the scope of FIPPA, and I will not consider it further.

### **Solicitor client privilege - s. 14**

[58] The Ministry relies on s. 14 to withhold email communications and a document. I am considering s. 14 prior to considering s. 25(1)(b) because the BC Court of Appeal has clarified that s. 25 does not override solicitor client privilege and s. 14.<sup>50</sup>

[59] Section 14 allows a public body to refuse to disclose information that is subject to solicitor client privilege. The term "solicitor client privilege" in s. 14 encompasses both legal advice privilege and litigation privilege.<sup>51</sup> The Ministry relies on legal advice privilege.<sup>52</sup>

#### *Legal advice privilege*

[60] Legal advice privilege promotes full and frank disclosure between solicitor and client, thereby promoting "effective legal advice, personal autonomy (the individual's ability to control access to personal information and retain confidences), access to justice, and the efficacy of the adversarial process."<sup>53</sup>

[61] Legal advice privilege attaches to communications that:

- are between a solicitor and their client,
- entail the seeking or giving of legal advice, and
- are intended by the parties to the communication to be confidential.<sup>54</sup>

[62] Not every communication between a solicitor and client is privileged merely because it is a communication between those parties, but if the above three conditions exist, legal advice privilege applies.<sup>55</sup>

[63] In addition to the communications set out above, legal advice privilege also applies to the "continuum of communications" related to the seeking and

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<sup>50</sup> *British Columbia (Children and Family Development) v. British Columbia (Information and Privacy Commissioner)*, 2024 BCCA 190 at para 63. The court said s. 25 does not contain the kind of clear, explicit, and unequivocal language required to override solicitor client privilege and s. 14.

<sup>51</sup> *College of Physicians of BC v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 [College] at para 26.

<sup>52</sup> Ministry's initial submission at para 48.

<sup>53</sup> *College* at para 30.

<sup>54</sup> *Solosky v. The Queen*, 1979 CanLII 9 (SCC), [1980] 1 SCR 821 at p. 837.

<sup>55</sup> *Ibid* at p. 829.

giving of legal advice, including the information furnished by the client to the lawyer as part of seeking legal advice and to internal client communications that comment on the legal advice received and its implications.<sup>56</sup>

*Parties' submissions - s. 14*

[64] The Ministry describes the information withheld under s. 14 as written communications of a confidential character, between the Ministry as client and the Lawyer.<sup>57</sup> The Ministry says these communications are directly related to the seeking and giving of legal advice including: a request for legal advice, the provision of that legal advice, summaries of the legal advice provided, and discussions about that advice.<sup>58</sup>

[65] To support its position on s. 14, the Ministry relies on the affidavits of the Lawyer and the Director. The Lawyer's evidence is that she provides legal advice to both the Ministry and the Teachers' Commissioner. The Lawyer identifies specific pages in the records package as communications between herself and the Ministry about the legal advice sought and provided by her.

[66] The Director's evidence is that the Ministry has an email account for the purposes of dedicated communications between the TRB and its lawyers. She describes this account as the Legal Counsel Inbox.<sup>59</sup> She says only a small number of staff have access to the Legal Counsel Inbox, to ensure regular and frequent monitoring and to facilitate record-keeping.<sup>60</sup>

[67] The Director says she reviewed the information withheld under s. 14. She says it is legal advice requested by TRB staff through the Legal Counsel Inbox in the normal course of handling the Complaint.<sup>61</sup> She also says that she treated this legal advice as confidential. She further attests to her belief that all Ministry employees who received this legal advice understood that it was confidential and not to be shared with any person or entity outside of government.<sup>62</sup>

[68] The applicant says that s. 14 does not apply. She says the records in question are records that have been sent from the Teacher to the Teachers' Commissioner. She further says they are not records exchanged between the Teacher and the Teacher's own lawyer.<sup>63</sup>

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<sup>56</sup> *Bilfinger Berger (Canada) Inc v. Greater Vancouver Water District*, 2013 BCSC 1893 at paras 22-24.

<sup>57</sup> Ministry's initial submission at paras 54 and 59.

<sup>58</sup> *Ibid* at paras 57-61.

<sup>59</sup> Director's affidavit at para 21.

<sup>60</sup> *Ibid*.

<sup>61</sup> *Ibid* at para 22.

<sup>62</sup> *Ibid* at para 24.

<sup>63</sup> Applicant's submission at para 46.

[69] The applicant questions why the Teacher would send privileged information to the Teachers' Commissioner.<sup>64</sup> Finally, the applicant argues that evidence entered into court is not privileged because it was discussed between a defendant and their lawyer.<sup>65</sup>

*Analysis – s. 14*

[70] As noted above, I do not have the s. 14 records before me. The applicant says she thinks these records are ones sent from the Teacher to the Teachers' Commissioner. Her description of these records, however, is not consistent with the evidence before me.

[71] The Lawyer's evidence is that the s. 14 records consist of: requests for legal advice provided to the Ministry at the Ministry's request; the provision of that legal advice by her to the Ministry; and her client's notes regarding that legal advice. She says that none of the email chains or documents can be severed without disclosing the legal advice sought or given or allowing an individual to draw accurate inferences as to the legal advice sought or given.<sup>66</sup>

[72] The Lawyer says the legal advice was intended to be confidential and that she provided it on the express understanding that it was subject to solicitor client privilege.<sup>67</sup> The Director also confirms the information withheld under s. 14 was legal advice that was kept confidential. I find the evidence of the Lawyer and the Director to be credible based on their experience and professional knowledge and given the context provided by the records.

[73] Based on the evidence before me, I am satisfied that none of the communications at issue were with the Teacher or with anyone else outside the solicitor client relationship.

[74] I find that the information in dispute consists of communications between a solicitor and client made for the purpose of seeking or providing legal advice, opinion or analysis. I find that the notes in the memo were about that legal advice and are part of the continuum of communications. I find that all of this information was intended, by all involved, to be confidential.

[75] For the above reasons, I am satisfied that the elements of legal advice privilege are met in this case.

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<sup>64</sup> Applicant's submission at para 47.

<sup>65</sup> Applicant's submission at para 49.

<sup>66</sup> Lawyer's affidavit at para 7.

<sup>67</sup> Lawyer's affidavit at para 9.

*Conclusion - s. 14*

[76] For the reasons outlined above, I find that s. 14 applies to all of the information withheld under s. 14.

**Advice or recommendations – s. 13**

[77] The Ministry also applied s.13 to some of the information that I found is outside the scope of FIPPA under s. 61(2)(a) of the ATA or was properly withheld under s. 14. The Ministry did not apply s. 13 to any other information. For these reasons, I need not consider s. 13.

**Disclosure that is clearly in the public interest – s. 25(1)(b)**

[78] The applicant asks that I order the Ministry to disclose all of the records in the public interest. Aside from privileged information, s. 25(1) overrides all of FIPPA's discretionary and mandatory exceptions to disclosure.<sup>68</sup> It applies in only the clearest and most serious situations.

[79] Section 25 does not apply to records that are outside the scope of FIPPA. For the purposes of this inquiry, the information that remains at issue has all been withheld under s. 22(1).

[80] The relevant parts of s. 25 are as follows:

25 (1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information

...

(b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Subsection (1) applies despite any other provision of this Act.

Clearly in the public interest - s. 25(1)(b)

[81] Section 25(1)(b) sets a high threshold for application, such that the duty to disclose only exists in the clearest and most serious of situations where the disclosure is unmistakably in the public interest.<sup>69</sup>

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<sup>68</sup> See footnote 50 re. ss. 25 and 14.

<sup>69</sup> Order 02-38, at paras. 45-46, citing Order No. 165-1997, 1997 BCIPC 22 (CanLII), p. 3. See also Order F23-94, 2023 BCIPC 110 (CanLII) at para 10 and Order F18-26, 2018 BCIPC 29 (CanLII) at para 14.

[82] In an OIPC Investigation Report, former Commissioner Denham provided guidance for how to decide if the disclosure of specific information is clearly in the public interest.<sup>70</sup> The factors identified in that report include:

- whether the subject matter involves a systemic problem rather than an isolated event;
- whether the subject matter generates widespread public debate, i.e., in the media, the Legislature, other Offices of the Legislature or oversight bodies;
- the effect of disclosure in light of the potential benefit to the public, i.e., that disclosure would:
  - contribute to educating the public about the matter;
  - add, in a substantive way, to the body of information that is already available about the matter;
  - enable or facilitate the expression of public opinion or enable the public to make informed political decisions; or
  - contribute in a meaningful way to holding a public body accountable for its actions or decisions.

[83] Disclosing information in the “public interest” is not about satisfying a general interest or curiosity.<sup>71</sup> Similarly, the general “public interest” in holding public bodies accountable does not mean that s. 25(1)(b) is an investigative tool to look into their affairs. Section 25(1)(b) is only triggered for specific information, the disclosure of which is clearly in the public interest.<sup>72</sup>

*Parties' submissions - s. 25(1)(b)*

[84] The applicant identifies the need for accountability and transparency in the system of teacher regulation in BC as engaging the public interest.<sup>73</sup> The applicant says that many parents are very frustrated with the TRB process. The applicant further says that access to documents presents a challenge to all parents using the TRB’s complaint system.<sup>74</sup>

[85] The applicant says that having a robust, transparent, and accountable regulatory body for teachers is important for maintaining the quality of education.<sup>75</sup> The applicant also says it is important for the safety of children.

[86] The applicant identifies her top priority as gaining access to the Teacher’s submissions to the Teachers’ Commissioner.<sup>76</sup> The applicant says the public

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<sup>70</sup> Investigation Report F16-02, 2016 CanLII Docs 4591 at p. 27.

<sup>71</sup> *Clubb v. Saanich (Corporation of The District)*, 1996 CanLII 8417 (BCSC) at para 33.

<sup>72</sup> Order 00-16, 2000 BCIPC 7714 (CanLII), p. 14.

<sup>73</sup> Applicant’s submission, p.1 and applicant’s additional submission at para 15.

<sup>74</sup> Applicant’s additional submission at para 15.

<sup>75</sup> *Ibid* at para 17.

<sup>76</sup> *Ibid* at para 21.

should be able to access this information to ensure the Ministry is discharging its duty and protecting the public, specifically children.<sup>77</sup> The applicant says that allowing a regulatory body to withhold the submission [to the TRB], of a teacher who harmed a child, is wrong.<sup>78</sup>

[87] Finally, the applicant says parents in Ontario have more access to information in the teacher regulation process than they do in BC. She says she does not think there should be greater information access rights in Ontario than in BC.<sup>79</sup> The applicant says Ontario's superior right of access is in the public interest because it creates the transparency that is required for public trust.<sup>80</sup>

[88] To support her position on disclosure of the records being in the public interest, the applicant relies upon:

- a 2010 newspaper article about the predecessor system of teacher regulation in BC;<sup>81</sup>
- a Wikipedia entry commenting on the commissioning of a 2011 report on the predecessor system of teacher regulation in BC;<sup>82</sup>
- the applicant's allegation of bias in the appointment of a member of the Teachers' Council as Executive Director of the TRB;<sup>83</sup>
- a link to a list of discipline outcomes for educators for a twelve month period;<sup>84</sup>
- a list of the topics of complaints against teachers in 2023-2024;<sup>85</sup>
- the BC Ombudsperson's investigation of circumstances in which BC's public K-12 schools are asking or telling students not to attend school;<sup>86</sup>
- a media article about the actions of the Surrey District's Parent Advisory Council launching a province-wide website to track the number of times classrooms have to be cleared because of the behaviour of a student;<sup>87</sup> and

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<sup>77</sup> *Ibid* at para 21.

<sup>78</sup> Applicant's submission, p. 40.

<sup>79</sup> *Ibid*.

<sup>80</sup> Applicant's additional submission at paras 6 and 15.

<sup>81</sup> Applicant's submission, p. 5.

<sup>82</sup> *Ibid* at para 9.

<sup>83</sup> *Ibid* at paras 12-16.

<sup>84</sup> *Ibid* at para 67 referencing:

<https://teacherregulation.gov.bc.ca/ProfessionalConduct/DisciplineOutcomes.aspx>.

<sup>85</sup> Applicant's submission at para 81. The applicant says the list is compiled from the TRB's annual report for 2023-24.

<sup>86</sup> Applicant's additional submission at para 17, referencing: <https://bcombudsperson.ca/fairness-public-schools/>.

<sup>87</sup> Applicant's additional submission at para 17, referencing:

<https://globalnews.ca/news/11498964/surrey-dpac-room-clear-tracker-invisible-exclusion-public-schools/>.

- a link to a teacher association website announcement about showing support for teachers in their collective bargaining.<sup>88</sup>

[89] The Ministry says the applicant does not clearly articulate a matter that engages the public interest. The Ministry further says the applicant has not met her burden of establishing that the subject matter in the records engages the public interest.<sup>89</sup>

[90] The Ministry says the “K-12 education system” is not sufficiently focused as a matter that engages the public interest under s. 25(1)(b).<sup>90</sup> The Ministry further says the public interest is not engaged here by a narrower focus of the subject matter as the “regulation of teachers in the K-12 education system in BC”.<sup>91</sup>

[91] The Ministry says the applicant has not provided evidence of widespread interest in, or discussion of, this system of regulation.<sup>92</sup> The Ministry says that the evidence relied upon by the applicant: spans a period of 2010 to present, relates to diverse matters, and shows only sporadic media interest in the health of the K-12 education system.<sup>93</sup>

[92] Finally, the Ministry says the applicant attempts to link the individualistic purposes of her access request to broader systemic purposes on behalf of all other parents. The Ministry further says both the applicant’s purposes and the records relate only to her specific complaint and the decision of the Teachers’ Commissioner.<sup>94</sup>

#### *Analysis - s. 25(1)(b)*

[93] For the reasons that follow, I find that s. 25(1)(b) does not require the Ministry to disclose the remaining information at issue.

#### Do the records concern a matter that engages the public interest?

[94] The first step in the s. 25(1)(b) analysis is to determine whether the matter underlying the records may engage s. 25(1)(b). If I find that it does, I will then proceed to examine the nature of the information in the records to determine whether it meets the threshold for disclosure.

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<sup>88</sup> Applicant’s additional submission at para 17, referencing: <https://nosta83.com/archives/1705>.

<sup>89</sup> Ministry’s additional response submission at para 16.

<sup>90</sup> *Ibid* at para 18.

<sup>91</sup> *Ibid* at para 19.

<sup>92</sup> *Ibid* at para 21.

<sup>93</sup> *Ibid* at para 17.

<sup>94</sup> *Ibid* at para 31.

[95] The applicant says there is a systemic problem with the regulation of teachers in BC. She makes repeated references to other parents sharing her frustrations and concerns about this system. The applicant has not, however, provided actual evidence of current widespread concerns or public interest.

[96] The only evidence of public interest in the system of teacher regulation in BC was the media article from 2010. However, this article is dated and not even about the current system of regulation.

[97] I find the applicant has not demonstrated that the records concern a matter that engages the public interest. Since the first part of the test under s. 25(1)(b) decides the matter, I need not decide if the nature of the withheld information itself meets the threshold for disclosure.

[98] However, given the importance of s. 25(1)(b) and for the sake of completeness, I considered whether the nature of the information in the records meets the high threshold for disclosure.

Is disclosure of these records clearly in the public interest?

[99] The next step in the s. 25(1)(b) analysis is to consider whether disclosing the records at issue meets the high threshold of being clearly in the public interest. For the reasons that follow, I am not persuaded that anything in these records meets the high threshold for disclosure under s. 25(1)(b).

[100] First, it is not apparent to me that the system of teacher regulation in BC is deficient. I only have the applicant's allegations about that. Absent supporting evidence, I am not persuaded by what the applicant says about the deficiencies of that system. Further, even if I accepted that the system is deficient, I cannot see how disclosure of these particular records might add, in any substantive way, to critiquing or improving it.

[101] Second, the records at issue are about the Complaint, a discrete and isolated matter. I can see from her detailed submissions that the applicant is unhappy about the investigation and outcome of the Complaint. Her dissatisfaction does not, however, equate to a systemic problem with teacher regulation.<sup>95</sup>

[102] An extensive analysis of how the Complaint was handled, alongside other information, may very well contribute to holding the system of teacher regulation accountable. However, I am not satisfied that disclosing the remaining

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<sup>95</sup> For a similar analysis of a discrete and isolated matter not engaging the public interest, see Order F24-101, 2024 BCIPC 115 (CanLII) at para 50.

information at issue would lead to that outcome.<sup>96</sup> I find that s. 25(1)(b) does not require the Ministry to disclose that information.

[103] I will now consider whether s. 22(1) requires the Ministry to refuse to disclose any of the remaining information at issue.

***Unreasonable invasion of a third party's personal privacy - s. 22***

[104] The Ministry relies on s. 22 to withhold a letter and certain information from email communications. For clarity, the information that remains at issue under s. 22 does not include any information that I found above was properly withheld as out of the scope of FIPPA under the ATA or as privileged under s. 14.

[105] Section 22(1) requires a public body to refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

[106] Previous orders have considered the proper approach to the application of s. 22 and I apply those same principles here.<sup>97</sup>

[107] The Ministry describes the remaining information at issue as information about the Teacher, the Student, and the applicant in emails and letters.

*Personal information*

[108] Section 22(1) only applies to personal information, so the first step in a s. 22 analysis is to decide if the information in dispute is personal information.

[109] FIPPA defines personal information as “recorded information about an identifiable individual other than contact information.”

[110] Contact information is defined as “information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual.”<sup>98</sup> Whether information is “contact information” depends upon the context in which it appears.<sup>99</sup>

[111] I will first consider whether the information in dispute is about identifiable individuals. I will then consider whether any of the information that I find is about identifiable individuals is contact information.

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<sup>96</sup> For similar reasoning, see Order F24-55, 2024 BCIPC 65 (CanLII) at para 110.

<sup>97</sup> See Order F15-03, 2015 BCIPC 3 (CanLII) at para 58, for example.

<sup>98</sup> FIPPA, Schedule 1.

<sup>99</sup> Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

*Parties' positions - personal information*

[112] The Ministry says the information at issue under s. 22(1) is about the investigation and resolution of the Complaint. The Ministry says that, as this information is *about* the Teacher and Student, it is therefore their personal information.<sup>100</sup>

[113] The Ministry says the personal information of the applicant has also been redacted where it is intertwined with the personal information of the Teacher.<sup>101</sup>

[114] The Ministry says that none of the information withheld under s. 22(1) is information to enable an individual at a place of business to be contacted and is therefore not contact information.<sup>102</sup>

[115] The applicant says:

The communication that the teacher sent to the Commissioner isn't about her "personal information". We don't know what her favourite food is, what she does over the weekend, what kind of shampoo she uses, or her sexual history. This request is nothing personal. All of the information was what occurred in the classroom in front of other students and her professional behaviour and her refusal to follow my daughter's Individual Education Plan. That demands privacy? That is my daughter's personal information? My daughter's IEP plan is not the teachers personal information and how the teacher does or does not implement isn't her personal information either.<sup>103</sup>

*Analysis - personal information*

[116] From my review of the information that remains at issue, I am satisfied that all of it is personal information of the Teacher, the Student and the applicant. This information either directly identifies individuals by name or initials, or is reasonably attributable to a particular individual, either on its own or when combined with other available sources of information.

[117] The personal information at issue is found in emails and in the Teacher Commissioners' decision letter<sup>104</sup> issued in response to the Complaint (Decision Letter).

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<sup>100</sup> Ministry's initial submission at paras 75 and 77.

<sup>101</sup> *Ibid* at para 78.

<sup>102</sup> *Ibid* at para 73.

<sup>103</sup> Applicant's submission at para 39.

<sup>104</sup> The Decision Letter appears in two places in the records (pp. 175-180 and 208-213) with the only difference being the date on the letter.

[118] I understand the applicant's position to be that information about a teacher in the workplace cannot be personal information because of the nature of the job. In my view, she is essentially making a distinction between "personal" and "professional" information.

[119] The distinction between personal and professional is not relevant to the analysis of whether information meets the statutory definition of personal information. The distinction does, however, have relevance to the analysis of s. 22(4)(e) which I discuss below.

*Not an unreasonable invasion of a third party's personal privacy - s. 22(4)*

[120] The next step in the s. 22 analysis is to determine whether the personal information falls into any of the categories set out in s. 22(4) and is, therefore, not an unreasonable invasion of a third party's personal privacy.

[121] The Ministry says that s. 22(4) does not apply to any of the information it withheld under s. 22(1). From the totality of her submissions, I understand the applicant to say that ss. 22(4)(a) and (e) apply so I consider these provisions below.

Consent – s. 22(4)(a)

[122] Section 22(4)(a) says that it is not an unreasonable invasion of a third party's personal privacy if the third party has, in writing, consented to or requested the disclosure.

[123] The applicant says the Student consented to the disclosure of personal information.<sup>105</sup>

[124] The Student's consent to disclosure of her personal information to the applicant was confirmed in writing during the inquiry process.<sup>106</sup> I find therefore, that s. 22(4)(a) applies and the Ministry is not required to withhold the Student's personal information.

Third party's position, functions, or remuneration – s. 22(4)(e)

[125] Section 22(4)(e) says that it is not an unreasonable invasion of a third party's personal privacy to disclose information about their position, functions or remuneration as an officer, employee or member of a public body.

[126] Past orders have established that s. 22(4)(e) applies to objective, factual statements about what a third party public body employee did or said in the

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<sup>105</sup> Applicant's submission at paras 36 and 76.

<sup>106</sup> Student's email to the OIPC dated October 2, 2025.

normal course of their duties.<sup>107</sup> It does not apply where the information is not exclusively about the employees' position, functions or remuneration.<sup>108</sup>

[127] The applicant says that the activities of a teacher in the workplace do not carry an expectation of privacy because they occur in the classroom.<sup>109</sup> She further says the only thing that is private for teachers is when they use the washroom.<sup>110</sup> I understand the applicant to mean that the information at issue is about the Teacher's position and functions under s. 22(4)(e).

[128] Numerous OIPC orders have considered whether s. 22(4)(e) applies to information about a workplace investigation.<sup>111</sup> The question is whether, given the context, the information would reveal additional personal information about the third party, such as disciplinary action. Section 22(4)(e) does not apply in those types of workplace complaint situations.<sup>112</sup>

[129] Conversely, in another order, the OIPC held that information about the routine work of public body employees whose actions were described in, but not the subject of, a workplace investigation, is captured by s. 22(4)(e).<sup>113</sup>

[130] Here, the context is the Complaint, in which the Teacher is the respondent. In my view, the information about the Teacher is therefore not exclusively about their routine work but is instead about the investigation and outcome of the Complaint. I therefore find that s. 22(4)(e) does not apply to it.

[131] I reviewed the other provisions in s. 22(4) and find that none apply.

*Presumed unreasonable invasion of a third party's personal privacy - s. 22(3)*

[132] The third step in the s. 22 analysis is to determine whether any presumptions set out in s. 22(3) apply. Section 22(3) sets out circumstances where disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy.

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<sup>107</sup> Order F24-10, 2024 BCIPC 14 (CanLII) at para 45; Order F09-15, 2009 BCIPC 58553 (CanLII) at para 15; and Order F14-41, 2014 BCIPC 44 (CanLII) at para 24.

<sup>108</sup> Order F23-92, 2023 BCIPC 108 (CanLII) at para 46.

<sup>109</sup> Applicant's submission at para 38.

<sup>110</sup> *Ibid* at para 38.

<sup>111</sup> See for example Order F24-48, 2024 BCIPC 56 (CanLII) at para 80, Order F23-71, 2023 BCIPC 84 at para 51, Order F21-08, 2021 BCIPC 12 (CanLII) at paras 126 and 127, and Order 01-07, 2001 CanLII 21561 (BC IPC) at para 8.

<sup>112</sup> Order F24-48, 2024 BCIPC 56 (CanLII) at para 80 referencing Order F10-21, 2010 BCIPC 32 (CanLII) at para 24.

<sup>113</sup> Conversely, in another order the OIPC held that information about the routine work of public body employees whose actions were described in, but not the subject of, the investigations were captured by s. 22(4)(e).

[133] The Ministry says s. 22(3)(d) applies to the Teacher's personal information, so I consider that provision below.<sup>114</sup> I also considered whether any of the other provisions might apply and find they do not.

[134] The relevant portions of s. 22(3) say:

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,

...

*Employment, occupational, or educational history – s. 22(3)(d)*

[135] The Ministry says s. 22(3)(d) applies to the Teacher's personal information. The Ministry says the personal information describes the Teachers' Commissioner's investigation, findings, and resolution of the Complaint. The Ministry further says it includes information about the Teacher's conduct as an employee of their school district and as the teacher of the Student.<sup>115</sup>

[136] The applicant does not comment specifically on the application of s. 22(3)(d).

[137] Previous OIPC orders have held that for the purposes of s. 22(3)(d), personal information arising from a disciplinary investigation by a regulatory body involving an individual subject to that body's authority is information that relates to the individual's occupational history.<sup>116</sup>

[138] A previous OIPC order specifically found that the personal information about a teacher collected by the Teachers' Commissioner in an investigation was presumptively an invasion of privacy under s. 22(3)(d).<sup>117</sup>

[139] I find that disclosure of the personal information about the Teacher reveals their employment history within the meaning of s. 22(3)(d). I therefore find the disclosure of this information is presumed to be an unreasonable invasion of the Teacher's personal privacy.

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<sup>114</sup> Ministry's initial submission at para 83.

<sup>115</sup> *Ibid* at para 87.

<sup>116</sup> Order 02-01, 2002 CanLII 42426 (BC IPC) at para 121.

<sup>117</sup> Order F18-02, 2018 BCIPC 2 (CanLII) at para 53.

*Relevant circumstances – s. 22(2)*

[140] The final step in the s. 22 analysis is to consider all relevant circumstances, including those listed in s. 22(2), before determining whether the disclosure of personal information would be an unreasonable invasion of personal privacy. It is at this step that any applicable s. 22(3) presumptions may be rebutted.

[141] The Ministry identifies s. 22(2)(a) and the applicant's prior knowledge as relevant circumstances for me to consider. The Ministry urges me to adopt the ruling in Order F18-02 which also involved an investigation of a teacher by the Teachers' Commissioner.<sup>118</sup> On the issue of the applicant's prior knowledge, though, the Ministry asks me to depart from that same order.<sup>119</sup>

[142] The applicant makes voluminous submissions critiquing the regulation of teachers in BC. From the entirety of these submissions, I conclude that she feels s. 22(a) is a relevant circumstance for me to consider.

Subjecting the public body to scrutiny – s. 22(2)(a)

[143] Section 22(2)(a) considers whether disclosure of personal information is desirable for the purpose of subjecting the activities of the government of BC or a public body to public scrutiny. Previous orders establish that the purpose of s. 22(2)(a) is to make public bodies, not individual employees, more accountable.<sup>120</sup>

[144] In my view, disclosing the Teacher's personal information is not desirable for subjecting the activities of the Ministry to public scrutiny. The disclosed records and the Ministry's submissions and evidence reveal the steps taken under the *Teachers Act* to investigate the Complaint. They also reveal the outcome of the Complaint.

[145] I can see nothing of any value to be added, in terms of furthering public scrutiny of the Ministry's activities, in disclosing the particulars of the Teacher's personal information.<sup>121</sup> I find that s. 22(2)(a) does not apply.

Applicant's knowledge

[146] Previous orders have found that where an applicant already knows the personal information in dispute, that this may weigh in favour of disclosure.<sup>122</sup>

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<sup>118</sup> Order F18-02, 2018 BCIPC 2 (CanLII).

<sup>119</sup> Ministry's initial submission at para 93 and 95.

<sup>120</sup> See, for example, Order F23-66, 2023 BCIPC 77 at para 49 and Order F18-47, 2018 BCIPC 50 (CanLII) at para 32.

<sup>121</sup> For a similar analysis, see Order F18-02, 2018 BCIPC 2 (CanLII) at para 58.

<sup>122</sup> See for example, Order F18-02, 2018 BCIPC 2 (CanLII) at para 81; Order F17-02, 2017 BCIPC 2 (CanLII) at paras 28-30; and Order F15-14, 2015 BCIPC 14 (CanLII) at paras 72-74.

[147] In the present case, the Ministry fully redacted the Decision Letter.<sup>123</sup> This severing is puzzling because the Decision Letter was addressed directly to the applicant, so I am confident she already knows what it says. The Ministry does not adequately explain why it has severed the Decision Letter.

[148] The Ministry argues that the applicant's knowledge of personal information does not weigh in favour of disclosure because disclosure to the applicant is disclosure to the world. On this basis, the Ministry says it disagrees with that portion of Order F18-02 upon which it otherwise heavily relies.<sup>124</sup>

[149] I am not persuaded by the Ministry's argument about disclosure to the world. The applicant already has the Decision Letter, so if she wanted to disclose it to the world, she already has that ability. The applicant knows about the Decision Letter because it was addressed and delivered to her.<sup>125</sup>

[150] I find that, in this case, the applicant's prior knowledge rebuts the presumption against disclosure of the personal information in the Decision Letter.

#### *Conclusion, s. 22(1)*

[151] I found that all the information that remains at issue under s. 22(1) is personal information. For the Student's personal information, I found that s. 22(4)(a) applies. For the Teacher's personal information, I found that s. 22(4)(e) does not apply. I also found that a presumption of an unreasonable invasion of a third party's personal privacy under s. 22(3)(d) applies to the Teacher's personal information.

[152] After considering all of the relevant circumstances under s. 22(2) (both listed and unlisted), I conclude that, other than the Decision Letter, disclosing any of the personal information would be an unreasonable invasion of a third party's personal privacy. With the exception of the Decision Letter, the Ministry must therefore withhold all the information it withheld under s. 22(1).

## **CONCLUSION**

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

1. Subject to item 5 below, I confirm that ss. 61(2)(a) and (c) of the ATA apply to some of the records;
2. I confirm the Ministry's decision to withhold information under s. 14;

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<sup>123</sup> Records, pp. 175-80 and 208-13.

<sup>124</sup> Ministry's initial submission at para 95.

<sup>125</sup> I can see from the records that the applicant received both versions (with different dates but otherwise the same).

3. I confirm that the Ministry is not required under s. 25(1)(b) to disclose any of the information;
4. Subject to item 5 below, I require the School District to refuse access to the information it withheld under s. 22(1);
5. The Ministry is required to give the applicant access to pp. 77-78, 175-180, and 208-213 of the records; and
6. The Ministry must provide the OIPC Registrar of Inquiries a copy of its cover letter and the accompanying information sent to the applicant in compliance with item 5 above.

Pursuant to s. 59(1), the Regional District is required to comply with this order by March 25, 2026.

February 10, 2026

**ORIGINAL SIGNED BY**

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Carol Pakkala, Adjudicator

OIPC File No.: F23-95481