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**POLICY P.128.GOV****TITLE: PRIVACY - MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (MFIPPA)****Date issued: 12 February 2010****Last revised****Authorization: Board: 09 February 2010**

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**1.0 OBJECTIVE**

To ensure the protection of personal information in the custody of or under the control of the Ottawa-Carleton District School Board and its third party service provider(s), and the right of privacy with respect to personal information that is collected, used, disclosed, and retained in accordance with the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) as applicable.

**2.0 DEFINITIONS**

The following definitions relate to personal information and the MFIPPA:

- 2.1 **Access** means the authority or permission to consult records or to obtain restricted information.
- 2.2 **Collect** means to gather, acquire, receive or obtain the information by means from any source.
- 2.3 **Confidential Record** means a record containing certain information that requires protection against unauthorized access or disclosure.
- 2.4 **Disclose** means to make the information available or to release it to another institution or to another person, but does not include using the information.
- 2.5 **Informal Access** means oral requests for personal information should be granted if a head may give access to information under the MFIPPA.
- 2.6 **Informed Consent** means informed consent is provided when the person consenting understands the nature of the information for which consent is sought, understands the potential consequences of signing the consent form, and is given the right to revoke the consent at any time.

- 2.7 **Notice** means:
- a) before disclosing a record, the head shall cause notice to be given to any person to whom the information in the record relates, if it is practicable to do so;
  - b) written notice to the applicant regarding an extension to respond to a MFIPPA request for information;
  - c) written notice to the applicant and to any person to whom the information in the record relates of the decision to disclosure or refusal to disclose, including appeal procedures; and
  - d) written notice regarding the legal authority for the collection, the principal purpose or purposes for which the personal information is intended to be used, and a contact individual who can answer questions regarding the collection.

- 2.8 **Personal Information** means recorded information about an identifiable individual, including,
- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
  - b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
  - c) any identifying number, symbol or other particular assigned to the individual,
  - d) the address, telephone number, fingerprints or blood type of the individual,
  - e) the personal opinions or views of the individual except if they relate to another individual,
  - f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
  - g) the views or opinions of another individual about the individual, and
  - h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Personal information does not include information about an individual who has been dead for more than thirty years.

- 2.9 **Personal Information Bank** means a collection of personal information that is organized and capable of being retrieved using an individual's name or an identifying number or particular assigned to the individual.

- 2.10 **Privacy** means the quality or condition of being secluded from the presence or view of others. The state of being free from unsanctioned intrusion: a person's right to privacy.

- 2.11 **Privacy Breach** means an infraction or violation with respect to the collection, use, disclosure, retention, or destruction of personal information that is inconsistent with privacy legislation.
- 2.12 **Privacy Impact Assessment (PIA)** means an assessment framework used to identify the actual or potential risks that a proposed or existing information system, technology, or program may have on an individual's privacy.
- 2.13 **Privacy Standard** means a set of rules, policies, procedures, guidelines, and characteristics that helps to foster a culture of privacy regarding the way the OCDSB collects, uses, disclosures, secures, retains, and disposes of personal information. It also ensures the right of individuals to have access to personal information about themselves and, as appropriate, to have it corrected.
- 2.14 **Record** means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,
- a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
  - b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution.
- 2.15 **Retention** means the minimum amount of time to keep a record as determined to be necessary by law or other authority. Original records cannot be destroyed until the retention time has expired. Likewise, records should not be retained longer than the retention time without good reason.
- 2.16 **Security** means the protection of personal information regardless of the format in which it is held and includes, but is not limited to, physical measures such as locked filing cabinets and restricted offices, organizational measures such as limited access, and technological measures, such as a the use of passwords and encryption.
- 2.17 **Third Party Service Provider** means any outside individual (such as a consultant), a business or an organization that provides a service to, or acts on behalf of, the OCDSB.

### 3.0 POLICY

- 3.1 It is the policy of the Board to collect, use, retain and disclose personal information in accordance with the statutory duties and responsibilities provided in the *Education Act*, the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), the *Personal Health Information Protection Act* (PHIPA), and any other applicable legislation.
- 3.2 Public information in the custody or control of the OCDSB should be available to the

public. The following ten principles will guide the management of personal information in the district:

- a) The Board is responsible for personal information in its custody or under its control and may delegate its authority and responsibilities as required.
- b) Personal information will only be collected for specified purposes, duly noting the legislative authority for the collection.
- c) Informed consent is required for the collection, use or disclosure of personal information, except where otherwise permitted by law.
- d) The collection of personal information will be limited to that which is necessary for the purposes identified.
- e) Personal information may only be used, retained or disclosed for the purposes for which it was collected.
- f) Personal information collected, used or disclosed shall be accurate, complete and up to date as is necessary.
- g) Personal information in the custody or control of the OCDSB shall be protected.
- h) All policies and procedures relating to the management of personal information shall be made readily available to the public.
- i) An individual has the right to access his or her information, to challenge its accuracy and completeness, and be notified of all requests for access to personal information from individuals other than the individual whom the information relates to, with such requests to be administered in accordance with the Act.
- j) The denial of access to personal information should be limited, specific and in accordance with the exemptions set out in the Act, with the ability for such decisions to be reviewed by an independent agency (i.e. the Information and Privacy Commissioner of Ontario appeal process).

## **4.0 SPECIFIC DIRECTIVES**

### Accountability and Responsibility

- 4.1 The Board is responsible, in accordance with MFIPPA, for personal information under its custody or control and delegates the authority relative to the MFIPPA to the Director of Education/Secretary of the Board or designate to be the Head in compliance with the MFIPPA, and who is accountable for compliance with privacy legislation.
- 4.2 The Director of Education/Secretary of the Board is authorized to issue such procedures as may be necessary to support this policy.
- 4.3 The Director or designate shall, pursuant to applicable legislation, be responsible for:

- a) Administering and ensuring compliance with respect to the collection, use, disclosure and retention of personal information in accordance with MFIPPA;
- b) Administering all requests for access or correction to personal information in accordance with the MFIPPA and the district's procedure on Official Access and Correction Requests under the MFIPPA;
- c) Ensuring that procedures are in place regarding third party service providers who have custody of personal information on behalf of the OCDSB whom are held accountable under the MFIPPA.
- d) Providing access by the public to privacy policies, procedures, manuals and guidelines prepared by the district;
- e) Where necessary, preparing for and defending decisions made under the Act at an appeal;
- f) Overseeing and managing any privacy breaches that may occur in accordance with the district's Privacy Breach procedure;
- g) Communicating and providing training opportunities to staff, as required, with respect to the obligations under the MFIPPA; and
- h) Any other requirements and responsibilities that may arise with respect to the district's obligations under the MFIPPA.

4.4 The Director or designate shall ensure that third party service providers who have custody of personal information on behalf of the OCDSB will be held accountable for the required protection of that information. Third party service providers are obligated to abide by the OCDSB privacy policies, procedures and practices.

#### Specified Purposes

4.5 The Director or designate shall ensure that the purposes for which personal information is collected shall be specified, in conjunction with legal authority for the collection, and the title, business address, and, where possible, telephone number of an individual who can answer questions about the collection, and individuals shall be notified at or before the time personal information is collected except otherwise permitted by law, and subject to any exceptions that may be permitted by law.

#### Consent

4.6 The Director or designate shall ensure an individual's informed consent is obtained for the collection, use, or disclosure of personal information, except where otherwise permitted by law. Such exceptions are set out in the law and include where legal, medical or security reasons make it impossible or impractical to seek consent. Consent may be expressed in writing. It may also be given verbally, electronically, or through the district's or the individual's authorized representatives. In certain circumstances, consent may be implicit, explicit or implied.

#### Limited Collection

4.7 The Director or designate shall ensure the collection of personal information is fair, lawful, and limited to that which is necessary for the specified purpose identified.

### Limiting Use, Retention, and Disclosure

4.8 The Director or designate shall ensure personal information may only be used or disclosed for the purposes for which it was collected, other purposes consented to, or as required or permitted by law. It may only be kept for as long as is necessary to satisfy the purposes for which it was collected, or as required, permitted by law or in accordance with the OCDSB's records and information management program and policy.

### Accuracy

4.9 The Director or designate shall ensure any personal information that is collected, used or disclosed should be as accurate, complete and up-to-date as is necessary in order to fulfill the specified purpose for its collection, use, disclosure, and retention.

### Safeguards

4.10 The Director or designate shall ensure personal information shall be protected by security safeguards that are appropriate to the sensitivity of the information, in order to protect personal information from unwarranted intrusion, release or misuse. The methods of protection of personal information will include, but are not limited to:

- a) Physical measures such as locked filing cabinets, restricted access to offices, sign-in logs, securely disposing of confidential information, and limited distribution of reports containing personal information as required;
- b) Organizational measures such as security clearances, and limiting access to and ability to change personal information in hard copy and electronic form;
- c) Technological measures such as passwords, firewalls, levels of encryption, and controls are ensured for remote access and when transmitting data/information via the internet, and password procedures;
- d) Disaster recovery plans in case of destruction, accidental loss of personal information, a natural disaster; and
- e) Measures applicable to the use of personal information off-site.

### Openness and Transparency

4.11 The Director or designate shall ensure that all policies and procedures relating to the management of personal information are made readily available to the public.

### Access and Correction

4.12 The Director or designate shall ensure:

- a) An individual has the right to access his/her personal information and will be given access to that information in accordance with privacy legislation, subject to any mandatory or discretionary exceptions.
- b) An individual has the right to challenge the accuracy and completeness of the information and to request that it be amended as appropriate or to have a letter/statement of disagreement retained on file.
- c) Any individual to whom the disclosure of the personal information has been

granted in the year preceding a correction has the right to be notified of the correction/statement. An individual shall be advised of any third party service provider requests for his/her personal information in accordance with privacy legislation.

- d) All requests for access to personal information from individuals other than the individual whom the information relates to, will be administered in accordance with the OCDSB privacy policy, procedures, MFIPPA and associated legislation.

#### Challenge and Compliance

4.13 The Director or designate shall ensure an individual shall have the ability to address or challenge compliance with these principles through the appeal process and in accordance with the Act.

## **5.0 REFERENCE DOCUMENTS**

**(Note: Some procedures under development)**

*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, Chapter M.56  
*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, Regulation 372  
*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, Regulation 823  
*The Education Act*, R.S.O. 1990, Chapter E.2  
Privacy and Information Management PIM Taskforce and Toolkit September 2008  
Board Procedure PR.669.GOV: Privacy-Breach  
Board Procedure PR.638.IT: Donation of Obsolete Computer Hardware  
Board Procedure PR.615.FAC: Video Surveillance  
Board Policy P.047.FAC: Video Surveillance  
Board Policy P.018.GOV: Electronic Meetings of the Board and Committees  
Board Policy P.074.IT: Computer Network Security  
Board Procedure PR.564.IT: Computer Network Security  
Board Policy P.100.IT: Appropriate Use of Technology  
Board Procedure PR.622.IT: Appropriate Use of Technology  
Board Policy P.049.IT: Electronic Communications Systems  
Board Procedure PR.672s.IT: Electronic Communications Systems  
Board Procedure PR.510.GOV: Official Access and Correction Requests under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*  
Board Policy P.027.GOV: Corporate Records Management  
Board Procedure PR.516.GOV: Management of Official Business Records

