



# PRIVACY PROTECTION AND ACCESS TO INFORMATION

Legal References:	<a href="#">Municipal Freedom of Information and Protection of Privacy Act</a> <a href="#">Personal Health Information Protection Act</a> <a href="#">Personal Information Protection and Electronic Documents Act</a>
Related References:	<i>Administrative Procedure 1100 – Privacy Protection and Access to Information</i> <i>Administrative Procedure 1102 – FOI Request Protocol</i> <i>Administrative Procedure 1104 – Privacy Breach Protocol</i> <i>Board Policy 1015 – Records Information Management</i> <i>Administrative Procedure 1110 – Records and Information Management</i> <a href="#">Information/Privacy Commissioner of Ontario – A Guide to Privacy and Access to Information in Ontario Schools</a> <a href="#">Information/Privacy Commissioner of Ontario – Planning for Success: Privacy Impact Assessment Guide</a>
Effective Date:	December 9, 2019
Revisions:	
Reviewed:	May 15, 2023

## 1. Preamble

The Waterloo Region District School Board shall comply with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and the *Personal Health Information Protection Act (PHIPA)*, which are provincial laws that govern the collection, use, access to, and disclosure of personal information. MFIPPA also provides individuals with a right of access to government records subject to specific and limited exemptions.

## 2. Definitions

A **Record** is all information held by the board, regardless of how it is recorded. This includes: correspondence, minutes, reports, photographs, videotapes, computer tapes/discs, email, files, drawings, and any other information that is in the control of a board. In addition:

- these records are not the personal property of individual staff members and may be requested by others under MFIPPA through a Freedom of Information request;
- the board/school is not required to provide information that has not been recorded, such as information discussed but not written by staff;
- the board/school is not required to produce records that have been properly disposed of under the authority of its Records Retention Schedule.

**General Information** refers to recorded information in the custody or control of the board that is not of a personal nature and may be disclosed under the MFIPPA unless an exemption to access applies. Examples of general information that can be routinely released include, but are not limited to, policies, Ministry guidelines, collective agreements, public minutes, school events and programs.

**Personal Information**, under MFIPPA, is defined as recorded information about an identifiable individual including:

- information relating to their race, national or ethnic origin, color, religion, age, sex, sexual orientation or marital or family status of the individual;

- 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;
- any identifying number, symbol or other particular assigned to the individual, the address, telephone number, fingerprints or blood type of the individual;
- the personal opinions or views of the individual except if they relate to another individual;
- 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;
- the views or opinions of another individual about the individual; and
- 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 (e.g. a student photo and a student name would be considered personal information).

**Personal Health Information**, under PHIPA, is defined as identifying information about an individual in oral or recorded form if the information:

- relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family;
- relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual;
- is a plan of service for the individual within the meaning of the Long-Term Care Act;
- relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual;
- relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance;
- is the individual's health number; or
- identifies an individual's substitute decision-maker.

### 3. Privacy Standard

The ten commitments that make up the Privacy Standard have been adapted for Ontario School Boards from the Canadian Standards Association (CSA) Fair Information Privacy Principles. They are intended to foster a culture of privacy with respect to how the board collects, uses, discloses, secures, retains and disposes of personal information and confidential records. It also ensures the right of individuals to have access to personal information about themselves and, as appropriate, to have it corrected. The commitments are as follows:

#### 3.1 Accountability and Responsibility

- Under MFIPPA, the board is responsible for personal information and confidential records under its control and may designate an individual within the board who is accountable for compliance with privacy legislation.
- Under the Personal Health Information Protection Act, health information custodians are responsible for personal health information and may designate an individual within the board as an agent to assist with compliance with privacy legislation.

#### 3.2 Specified Purposes

The purposes for which personal information is collected are specified, and individuals are notified of the purposes at or before the time personal information is collected:

#### 3.3 Consent

An individual's informed consent is required for the collection, use, and disclosure of personal information, except where otherwise permitted by law.

#### 3.4 Limiting Collection

The collection of personal information is fair, lawful, and limited to that which is necessary for the specified purposes.

### **3.5 Limiting Use, Retention, and Disclosure**

The use, retention, and disclosure of personal information are limited to the specified purposes identified to the individual.

### **3.6 Accuracy**

The board shall ensure that personal information is accurate, complete, and up-to-date in order to fulfill the specified purposes for its collection, use, disclosure and retention.

### **3.7 Security Safeguards**

To the extent it is able, the board shall ensure that personal information is secured and protected from unauthorized access, disclosure, use, or modification or inadvertent loss or destruction.

### **3.8 Openness and Transparency**

Policies and practices relating to the management of personal information are made readily available to the public.

### **3.9 Access and Correction**

- An individual has the right to access their personal information and will be given access to that information in accordance with the provisions of the Education Act and MFIPPA.
- An individual has the right to challenge the accuracy and completeness of the information held by the board and request that it be amended, as appropriate, or to have a letter/statement of disagreement retained on file.
- Any individual to whom the disclosure has been granted in the year preceding a correction has the right to be notified of the correction/statement.
- An individual is to be advised of any third party service provider requests for his/her personal information, in accordance with privacy legislation.

### **3.10 Compliance**

An individual may address or challenge compliance with the above principles to the Director of Education or the board's Freedom of Information, Privacy and Records Information Management Officer.

## **4. Responsibility**

4.1 In accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, the Waterloo Region District School Board designates the Director of Education as head for the purposes of the Act.

4.2 The Director of Education will delegate the duties of the Act to the Freedom of Information, Privacy and Records Information Management Officer, including:

- a. receive all formal requests for information under the Act (refer to [Administrative Procedure 1102 - FOI Request Protocol](#));
- b. retrieve and review Board records in response to formal requests;
- c. prepare correspondence related to notification and access, including tracking of requests, and an estimate of costs to access information;
- d. prepare Board records for access, including severing of personal information where required;
- e. oversee the administration of fees and financial reporting for requests made under the Act, in cooperation with the Finance Department.
- f. prepare the Board's annual MFIPPA and PHIPA Statistical Reports to the Information and Privacy Commissioner; and
- g. assist with staff training related to implementation of the legislation.

- 4.3 It is the responsibility of all staff, trustees, volunteers, and third party agencies/contractors of the board to comply with this policy.
- 4.4 It is the responsibility of all staff, trustees, and third party agencies/contractors of the board to follow [Administrative Procedure 1104 - Privacy Breach Protocol](#) in the event of a privacy breach. A privacy breach occurs when personal information is collected, retained, used or disclosed in ways that are not in accordance with the provisions of MFIPPA or PHIPA. Among the most common breaches of personal privacy is the unauthorized disclosure of personal information. This includes personal information that is lost or misplaced, stolen or inadvertently disclosed through human error (e.g., an email or letter addressed to person A is actually mailed to person B). In the event of a privacy breach, the board's [Privacy Breach Protocol](#) is to be followed.
- 4.5 It is the responsibility of the Freedom of Information, Privacy and Records Information Management Officer to implement training for staff on this policy, related procedures and guidelines.
- 4.6 This policy will be reviewed annually and revised as required.

## **5. Privacy Complaints**

Any privacy complaints regarding misuse of personal information must be referred immediately to the Freedom of Information, Privacy and Records Information Management Officer. This includes concerns related to improper collection (e.g. no notification provided), use or disclosure by WRDSB staff.