

# Toronto District School Board

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Policy P094

Title: **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

Adopted: April 17, 2019

Effectuated: April 17, 2019

Revised: N/A

Reviewed: N/A

Authorization: Board of Trustees

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## 1. RATIONALE

The Freedom of Information and Protection of Privacy Policy (“the Policy”) supports the implementation of the Toronto District School Board’s obligations under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, particularly with regard to the collection, use, retention, and disclosure of information and protection of personal information held by the Board.

## 2. OBJECTIVE

- To establish the framework for the Board’s compliance with the *MFIPPA* and other applicable legislation; and
- To demonstrate the Board’s commitment to protection of personal information while recognizing and supporting the public’s right of access to information in the custody and control of the Board and its third party providers.

## 3. DEFINITIONS

*Board* is the Toronto District School Board, which is also referred to as “TDSB”.

*Data Standards for the Identification and Monitoring of Systemic Racism*, also known as Ontario’s Anti-Racism Data Standards (Standards) were established to help identify and monitor systemic racism and racial disparities within the public sector by the *Anti-Racism Act 2017*. The Standards establish consistent, effective practices for producing reliable information to support evidence-based

decision-making and public accountability to help eliminate systemic racism and promote racial equity.

*Freedom of Information (FOI) Request* is a request under *MFIPPA* for access to information that is in the custody or control of the Board.

*Information and Privacy Commissioner (IPC) of Ontario* is an independent officer of the Ontario Legislature with the powers and duties prescribed by the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. The office of the IPC is an independent body tasked with upholding and promoting open government and the protection of personal privacy in Ontario. The Commissioner has the authority to conduct investigations, issue orders, enforce fines and review disclosure decisions.

*Major Privacy Breach*, for the purpose of this Policy, is a type of Privacy Breach determined by the TDSB's FOI Office which by its nature and seriousness requires an immediate response and must be reported to the IPC as soon as practicable. The cause of the breach, the risks associated with the breach, and any foreseeable harm from the breach will be evaluated by the FOI Office and action will be taken, if required, to mitigate any future risk.

*Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* establishes legal obligations on how public organizations may collect, use, and disclose personal information. *MFIPPA* also establishes a right of access that enables individuals to request their own personal information and have it corrected.

*Open Data* is data that is made publically available, independent of the FOI request process, for it to be freely used, copied, modified, published, translated, adapted, and/or distributed in any medium, mode, or format for any lawful purpose. Data that contains personal information, or information that may pose a security or confidentiality concern, will not be released as open data.

*Personal Information* is recorded information about an identifiable individual. As defined by the *MFIPPA* this may include, but is not limited to:

- Information relating to the race, national or ethnic origin, colour, 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.

*Personal Information Bank (PIB)* is a collection of personal information that is organized and capable of being retrieved by using an individual's name, identifying number or particular unique identifier assigned to the individual.

*Privacy* is the right or interest of an individual to control the collection, use, and disclosure of their personal information. Privacy is a fundamental right for citizens of Ontario. Municipal organizations and agencies that collect personal information are required to follow legal obligations outlined in the *MFIPPA*.

*Privacy Breach* is an incident in which personal information is collected, used, retained or disclosed without authorization or in error.

*Privacy Impact Assessment (PIA)* is a risk management tool used to identify the actual or potential effects that a proposed or existing information system, technology, program, process or other activity may have on an individual's privacy.

*Service Level Agreement (SLA)* is a contract between a service provider and the end user (TDSB) that defines the level of service expected from the service provider. The SLA records a common understanding about services, priorities, responsibilities, guarantees and warranties.

*TDSB* is the Toronto District School Board, which is also referred to as the "Board."

#### **4. RESPONSIBILITY**

Pursuant to s. 49(1) of the *MFIPPA*, , the Board of Trustees delegated its powers and duties as a head of institution to the Director of Education. The Director of Education has the authority to sub delegate some or all of these powers and duties in writing to appropriate staff and is accountable for compliance with privacy legislation.

The Director of Education holds primary responsibility for the implementation of this Policy.

Within the Director's Office, the responsibility for the coordination and day-to-day management of the Policy is assigned to the Executive Officer, Information Technology/Information Management and Freedom of Information and Privacy.

## **5. APPLICATION AND SCOPE**

This Policy applies to all employees, service providers, volunteers, and Trustees of the Board.

## **6. POLICY**

- 6.1. The Board will only collect, use, retain and disclose personal information in accordance with applicable legislation.
- 6.2. A notice of collection will be provided to the individuals in order to collect, use, retain and disclose their personal information. The notice of collection will contain information about (1) the legal authority for the collection, (2) the purpose(s) for which the personal information is intended to be used; and (3) the contact information of the TDSB employee who is responsible for the collection of the information. The Board will include a notice of collection on all new and revised TDSB forms, including web-forms and other documents used for the collection of personal information.
- 6.3. The Board will establish, maintain and continuously improve organizational structures, systems, processes and controls to comply with all applicable legislation , as related to:
  - (a) collection, use, retention, and disclosure of information in the custody and control of the Board and its third-party providers.
  - (b) protection of personal information in the custody and control of the Board and its third-party providers.
- 6.4. The Board will implement the process for accessing information under the *MFIPPA* and ensure it is available and accessible to the public and staff.
- 6.5. The Board will ensure that the principles of equity and fairness, as stated in the TDSB's Equity Policy (P037), are embedded in the FOI process.
- 6.6. Personal demographic information collected under the *Anti-Racism Act, 2017*, will be kept in a data set that is aligned with the Ontario's Anti-Racism Data Standards. This data set will be separate from the administrative data set, and will be anonymized or recorded with unique pseudonym or identification number assigned so that only a designated manager is able to link the data sets as necessary to facilitate analyses.

Access to this personal demographic information will be limited to only those individuals who need it in the performance of their duties, in connection with requirements under the *Anti-Racism Act 2017*, regulations and the standards.

- 6.7. The Board will take reasonable measures to embed privacy protection requirements in the design of TDSB programs, initiatives, projects, service provider contracts, agreements and information technology solutions such as: Privacy Impact Assessments (“PIA”), Service-Level Agreements (“SLA”) and Personal Information Banks (“PIB”).
- 6.8. The Board shall ensure that third party service providers who have custody of personal information on behalf of the Board will be held accountable for the required protection of that information. Third party service providers are obligated to abide by applicable legislation and the Board’s privacy policies, procedures, and protocols.
- 6.9. The Board will take reasonable measures to secure and protect personal information from unauthorized access, use, disclosure and inadvertent destruction by adhering to established safeguards and the Board’s Retention Schedule.
- 6.10. The Board will develop and implement a privacy breach protocol (i.e., a procedure for mitigating any incidents in which personal information is collected, used, and/or disclosed by an individual unauthorized to do so). The protocol will outline the process for investigating the breaches, and preventing future occurrences.
- 6.11. The Board acknowledges that an individual has the right to access their own personal information and will be given access to that information, subject to legislative requirements, Ministry of Education guidelines (e.g., Ontario Student Record Guidelines), and in the case of employees, Collective Agreement provisions and relevant Employee Services protocols. This includes the individual’s right to challenge the accuracy and completeness of the information and request that it be amended as appropriate.
- 6.12. The Board will implement mandatory FOI and protection of privacy training for all TDSB staff.
- 6.13. The Board will report to the Information and Privacy Commissioner (IPC) of Ontario any major privacy breaches of personal information and will ensure that recommendations of the IPC related to the breach are thoroughly considered and implemented.

6.14. The Board will provide an annual statistical report with consolidated information on FOI requests to the IPC in the form and format prescribed by the Commissioner. A copy of the report will be presented to the Board of Trustees and Legal Services for information.

6.15. The Board will monitor and track the types of information commonly and frequently requested by the public through the FOI process on a quarterly basis. Information that represents continuous interest to the public, and is not personal or confidential, will be considered for posting on the Board's website in accordance with the Open Data Policy (P091).

## **7. SPECIFIC DIRECTIVES**

The Director of Education has authority to issue operational procedures to implement this Policy.

## **8. EVALUATION**

This Policy will be reviewed as required, but at a minimum every four (4) years after the effective date.

## **9. APPENDICES**

Not Applicable

## **10. REFERENCE DOCUMENTS**

### Policies:

- Equity Policy (P037)
- Human Rights Policy (P031)
- Open Data Policy (P091)

### Procedures:

- Freedom of Information and Protection of Privacy (PR676)

### Legislative Acts and Regulations:

- *Anti-Racism Act, 2017*
- *Data Standards for the Identification and Monitoring of Systemic Racism, 2018*
- *Education Act, R.S.O. 1990, Chapter E.2*
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*
- Ontario Student Record Guidelines