

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-01

January 14, 2016

BOW VALLEY COLLEGE

Case File Number F7300

Office URL: www.oipc.ab.ca

Summary: The Complainant complained that Bow Valley College (the “Public Body”) used or disclosed his personal information in contravention of the *Freedom of Information and Protection of Privacy Act* (“the Act”) when the Academic Preparation Coordinator emailed a number of employees of the Public Body to advise them of an ongoing conflict between the Complainant and another student.

The Adjudicator found that the Public Body did not contravene the Act because the information it collected was necessary for an activity of the Public Body and was used for a reason that was consistent with why the information was collected. The Adjudicator also found that the Public Body met its duty under section 38 of the Act when it emailed the Complainant’s personal information.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 33, 38, 39, 40, 41, and 72.

Authorities Cited: AB: Orders F2013-38.

I. BACKGROUND

[para 1] The Complainant was a student at Bow Valley College (“the Public Body”). According to the Public Body, during his time as a student, the Complainant got into a conflict with another student attending the Public Body (“the other student”). I assume

that the conflict occurred during some campus-related activity, though neither party provided me with details about what the initial conflict between the Complainant and the other student was. According to the Complainant, he had successfully sued the other student. I was not provided details about what the Applicant sued the other student for.

[para 2] In any event, on March 28, 2013, an employee of the Public Body who held the position of Academic Preparation Coordinator wrote an email with the subject “Code of Conduct follow up” to his two supervisors, one of whom sent it to another employee of the Public Body who held the title of Vice President Learner and Enrollment Services. The email stated that the Academic Preparation Coordinator had spoken with the other student and advised him he would be receiving a warning letter and that he was not to have any contact with the Complainant. He was also asked to let the Academic Preparation Coordinator know if the Complainant contacted him. A few days later, the other student contacted the Public Body’s employee and advised that he had been served with a garnishee from the Courthouse as the result of the Complainant’s successful litigation. The email detailed the steps that the Academic Preparation Coordinator had taken to assist the other student.

[para 3] Later that same day, the Academic Preparation Coordinator sent an email updating his supervisors with information the other student had learned from speaking with the clerks at the Courthouse.

[para 4] On June 10, 2013, the Complainant complained to the Office of the Information and Privacy Commissioner (“this Office”) that the Public Body had disclosed his personal information in contravention of the *Freedom of Information and Protection of Privacy Act* (“the Act”). The Commissioner authorized mediation to attempt to resolve the issues between the parties but this was not successful and on October 9, 2014, the Complainant requested an inquiry. His request for inquiry was granted. I received submissions from both parties.

II. INFORMATION AT ISSUE

[para 5] The information at issue in this inquiry is the Complainant’s personal information sent via email on March 28, 2013.

III. ISSUES

[para 6] The Notice of Inquiry dated August 17, 2015 sets out the issues in this inquiry as follows:

- A. Did the Public Body contravene Part 2 of the FOIP Act when an Administrator emailed other members of the Public Body’s Administration regarding the Complainant?**

B. Did the Public Body have reasonable safeguards in place when sending an internal email containing the Complainant's personal information, in accordance with section 38 of the FOIP Act?

[para 7] In his rebuttal submissions, the Complainant argues that the Public Body did not properly advise me as to why the Academic Preparation Coordinator had contacted a clerk at the Courthouse. I do not see how this information is relevant to this inquiry. Only the information in the email is at issue in this inquiry and that is all I will deal with in this Order.

IV. DISCUSSION OF ISSUES

A. Did the Public Body contravene Part 2 of the FOIP Act when an Administrator emailed other members of the Public Body's Administration regarding the Complainant?

[para 8] When the Academic Preparation Coordinator of the Public Body sent the information at issue to his supervisors and when his supervisor subsequently forwarded the e-mail to another employee, the Public Body was using the information in the email. Alternatively, this could be seen as one employee disclosing information to other employees. As a result, I will discuss the email both in terms of it being a use and a disclosure. In either event, the result is the same.

[para 9] In order for Part 2 of the Act to apply, the information used/disclosed by the Public Body must be the Complainant's personal information.

[para 10] Personal information is defined by the Act as follows:

1(n) "personal information" means recorded information about an identifiable individual, including:

(i) the individual's name, home or business address or home or business telephone number,

(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,

(iii) the individual's age, sex, marital status or family status,

(iv) an identifying number, symbol or other particular assigned to the individual,

(v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,

(vi) information about the individual's health and health care history, including information about a physical or mental disability,

(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,

(viii) anyone else's opinions about the individual, and

(ix) the individual's personal views or opinions, except if they are about someone else;

[para 11] The email sent by the Academic Preparation Coordinator contained the Complainant's first name. Given the context of the email, the Complainant's first name is information about the Complainant as it is clear to whom the employee was referring even though he only used the Complainant's first name. This information falls within the definition of "personal information" found in section 1(n) of the Act. Therefore, the information at issue was used by the Public Body.

[para 12] When the Academic Preparation Coordinator of the Public Body sent the information at issue to his supervisors and when his supervisor subsequently forwarded the email to another employee, the Public Body was using the information in the email. Section 39 of the Act governs how a Public Body may use personal information. The portions of section 39 of the Act that are relevant in this inquiry state:

39(1) A public body may use personal information only

(a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

(b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, or

(c) for a purpose for which that information may be disclosed to that public body under section 40, 42 or 43.

...

(4) A public body may use personal information only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.

[para 13] Alternatively, these emails could be defined as a disclosure. Section 40 of the Act governs when a Public Body may disclose a third party's personal information. The relevant portions of section 40 state:

40(1) A public body may disclose personal information only

...

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

[para 14] The Public Body argues that it used/disclosed the information at issue for a purpose that was consistent with the purpose for which it was collected. Section 33 of the Act governs collection and states:

33 No personal information may be collected by or for a public body unless

(a) the collection of that information is expressly authorized by an enactment of Alberta or Canada,

(b) that information is collected for the purposes of law enforcement, or

(c) that information relates directly to and is necessary for an operating program or activity of the public body.

[para 15] Generally, the Public Body argues that it collected the Complainant's personal information because he was a student at Bow Valley College and his name related directly to and is necessary for an operating program or activity of the Public Body. I agree that knowing the names of students attending an educational institution is necessary for an operating program or activity of the Public Body running the institution.

[para 16] Specifically, and more relevant to this inquiry, the Public Body seems to argue that it collected the Complainant's name from the other student in order to resolve a dispute between two of its students presumably arising from a campus-related activity which was brought to the Public Body's administration's attention by the other student. While I do not know the details of the initial conflict and I have no evidence that the Public Body was implicated in the Complainant's lawsuit against the other student because of the position that the Public Body placed itself in by issuing a warning letter to the other student imposing a condition that he not communicate with the Complainant and asking the other student to advise the Public Body if the Complainant contacted him, it is reasonable that the other student would have gone to the Public Body for advice on how to deal with the garnishee.

[para 17] Given the position of the Public Body in the conflict between the Complainant and the other student, it was equally reasonable that the Academic Preparation Coordinator who had contacted the other student to advise him not to communicate with the Complainant, listen to the problem the other student was having with the Complainant to determine if the conflict between two of its students required further intervention from the Public Body. Resolving issues between students and related concerns arising from campus-related activities is a responsibility of the Public Body and therefore when it collected the Complainant's name in order to address the conflict and concern, the collection of information related directly to and was necessary for an activity of the Public Body. I agree with this line of reasoning.

[para 18] Given my findings as to the reason for the collection of the Complainant's personal information, I need only find that the use/disclosure of his personal information

was consistent with the purpose of the collection. Section 41 of the Act outlines what is meant by the term consistent purpose in sections 39 and 40 of the Act. It states:

41 For the purposes of sections 39(1)(a) and 40(1)(c), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

(a) has a reasonable and direct connection to that purpose, and

(b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.

[para 19] In this inquiry, the Academic Preparation Coordinator collected the Complainant's personal information from the other student for the purpose of resolving a conflict between the Complainant and the other student. As part of the conflict resolution, the employee of the Public Body advised the other student that he was to have no contact with the Complainant. Given this decision, it seems completely reasonable and necessary for the Academic Preparation Coordinator to have communicated this decision to his supervisors so that they could be made aware that the other student was not to have contact with the Complainant, so that further disciplinary steps could be taken should the other student communicate with the Complainant. Emailing the information about the garnishee to these same employees of the Public Body is equally reasonable and directly connected to the purpose for which the Complainant's personal information was collected because it was information that suggested that the conflict between the Complainant and the other student was not resolved and might require future intervention by the Public Body at a higher level than the Academic Preparation Coordinator. I find that emailing the Complainant's personal information to a limited number of employees had a reasonable and direct connection to the purpose of the collection and was necessary for operating a legally authorized program of the Public Body. Therefore, I find that the Public Body did not contravene Part 2 of the Act.

B. Did the Public Body have reasonable safeguards in place when sending an internal email containing the Complainant's personal information, in accordance with section 38 of the FOIP Act?

[para 20] The Complainant argues that the Public Body's e-mail was not a secure way of transmitting his personal information and as a result, the Public Body failed to protect his personal information in accordance with the Act.

[para 21] Section 38 of the Act requires a public body to protect personal information by making reasonable security arrangements. Section 38 of the Act states:

38 The head of a public body must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

[para 22] The Public Body submitted that messages exchanged between Public Body email accounts (as is the case in this inquiry) remain within the Public Body's computer network. Its network is monitored by an information and technology services department for things such as security threats, viruses and unauthorized access. As well, employees' email accounts are password protected and all employees must follow the Public Body's information and technology policies.

[para 23] The Complainant's concerns regarding the security of his personal information and the Public Body's submissions on the matter are very similar to those of the Applicant and public body in Order F2013-38. As a result, my finding in this Order is the same as my finding in Order F2013-38 in which I found that the public body made reasonable security arrangement against the risk of unauthorized access, collection, use, or disclosure of the complainant's personal information.

[para 24] Based on the Public Body's submissions, I find that it has made reasonable security arrangements against risk of unauthorized access, collection, use, or disclosure. Therefore, I find that the Public Body complied with section 38 of the Act.

V. ORDER

[para 25] I make this Order under section 72 of the Act.

[para 26] I find that the Public Body did not contravene Part 2 of the Act.

[para 27] I find that the Public Body complied with section 38 of the Act.

Keri H. Ridley
Adjudicator