



**PERSONAL INFORMATION PROTECTION ACT  
Breach Notification Decision**

<b>Organization providing notice under section 34.1 of PIPA</b>	SMS Equipment Inc. (Organization)
<b>Decision number (file number)</b>	P2019-ND-054 (File #011522)
<b>Date notice received by OIPC</b>	March 28, 2019
<b>Date Organization last provided information</b>	April 5, 2019
<b>Date of decision</b>	May 6, 2019
<b>Summary of decision</b>	There is a real risk of significant harm to the individual affected by this incident. The Organization is required to notify this individual pursuant to section 37.1 of the <i>Personal Information Protection Act</i> (PIPA).
<b>JURISDICTION</b>	
<b>Section 1(1)(i) of PIPA “organization”</b>	The Organization is an “organization” as defined in section 1(1)(i) of PIPA.
<b>Section 1(1)(k) of PIPA “personal information”</b>	The incident involved all or some of the following information: <ul style="list-style-type: none"><li>• name, and</li><li>• results from drug and alcohol test.</li></ul> This information is about an identifiable individual and is “personal information” as defined in section 1(1)(k) of PIPA.
<b>DESCRIPTION OF INCIDENT</b>	
<input type="checkbox"/> loss <input checked="" type="checkbox"/> unauthorized access <input type="checkbox"/> unauthorized disclosure	
<b>Description of incident</b>	<ul style="list-style-type: none"><li>• On March 11, 2019, an external job candidate, who had been referred by a current employee, attended pre-employment drug and alcohol testing for a safety sensitive position. The candidate was unsuccessful.</li><li>• The hiring manager was notified that the candidate was unsuccessful. The hiring manager then spoke to the employee who referred the candidate and told him “that his friend failed the drug test”.</li></ul>

	<ul style="list-style-type: none"> <li>The incident was discovered when the hiring manager contacted the recruiter to ask that the test results be double-checked and said that he spoke with the referring employee. The recruiter informed the Organization of the incident.</li> </ul>
<b>Affected individuals</b>	The incident affected one (1) individual residing in Alberta
<b>Steps taken to reduce risk of harm to individuals</b>	<ul style="list-style-type: none"> <li>Provided immediate feedback to the manager.</li> <li>Required the current employee to sign a confidentiality agreement.</li> <li>Documented policies that are reviewed at hire and on a bi-annual basis.</li> <li>Coach managers regularly that such information must remain confidential.</li> </ul>
<b>Steps taken to notify individuals of the incident</b>	The affected individual was notified by letter on April 4, 2019.
<b>REAL RISK OF SIGNIFICANT HARM ANALYSIS</b>	
<p><b>Harm</b> Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be “significant.” It must be important, meaningful, and with non-trivial consequences or effects.</p>	<p>The Organization reported the possible harm that might result from this incident include “Damage to the candidate’s reputation”, “Damage to the candidate’s relationship with the employee or others”, and “Reluctance of the referring employee to refer the candidate to other individuals or organizations in the future (i.e. loss of business or professional opportunities)”.</p> <p>I agree with the Organization’s assessment. A reasonable person would consider that the health/medical information at issue could be used to cause hurt, humiliation, and embarrassment and could result in damage to reputation, relationships and professional opportunities. These are all significant harms.</p>
<p><b>Real Risk</b> The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.</p>	<p>The Organization reported that “There is a real risk of harm because an unauthorized disclosure has already occurred. However, further unauthorized disclosures are considered unlikely ...”.</p> <p>I agree with the Organization. The likelihood of harm resulting from this incident is increased because the personal information has already been disclosed to an individual who has a personal/professional relationship with the affected individual.</p>
<b>DECISION UNDER SECTION 37.1(1) OF PIPA</b>	
Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individual.	

A reasonable person would consider that the health/medical information at issue could be used to cause hurt, humiliation, and embarrassment and could result in damage to reputation, relationships and professional opportunities. These are all significant harms. The likelihood of harm resulting from this incident is increased because the personal information has already been disclosed to an individual who has a personal/professional relationship with the affected individual.

I require the Organization to notify the affected individual in Alberta in accordance with section 19.1 of the *Personal Information Protection Act Regulation* (Regulation).

I understand the Organization notified the affected individual in a letter dated April 4, 2019 in accordance with the Regulation. The Organization is not required to notify the affected individual again.

Jill Clayton  
Information and Privacy Commissioner