Privacy – Guidelines for Schools

Handling requests for access/correction to personal and sensitive information

Careful attention must be given to every request by an individual for access to his or her personal or sensitive information. It is unlawful to deny access because it may be costly, inconvenient or difficult.

All requests for access should be processed in a timely manner.

If an individual requests access to his or her personal or sensitive information, the following guidelines will apply.

Who can request access?

The following individuals can request access to information:

♦ A current, former or prospective parent/guardian or student of the school
♦ A current, former or prospective contractor
♦ A current, former or prospective volunteer
♦ A prospective employee
♦ A current or former employee (Employee personal information is exempt due to the employee records exemption. However, it is advisable to comply with all requests for access/correction because in some cases the employee records exemption does not apply. In addition, the Privacy Commissioner encourages employers to consider the privacy of the employee records in the same way as other records, even though they may be exempt.)

Which records may be accessed?

If the information already held is not used or disclosed it only applies to information collected after 21st December 2001. But if the information already held is used or disclosed after 21st December 2001, the full rights of access and correction apply to that information.

What are the exceptions to access and correction?

The School/College may deny access to information where:

♦ In the case of personal information other than health information, providing access would pose a serious and imminent threat to the life or health of any individual
In the case of health information, providing access would pose a serious threat to the life or health of any individual.

This would unreasonably impact on the privacy of other individuals. (However, it may be possible to provide parts of the information which do not identify others or to delete another individual’s personal information from the document.)

The request is frivolous or vexatious in the extreme (e.g., requests that are trivial or made for amusement, or made as a means of pursuing some unrelated grievance against the school, or repeated requests for the same information.)

The information relates to existing or anticipated legal proceedings between the parties.

The information would reveal a negotiating position in such a way as to prejudice those negotiations.

Access would be unlawful.

Denying access is required or authorized by law or under law.

Providing access is likely to prejudice the presentation, detection, investigation or prosecution of an unlawful activity, the activities of law enforcement agencies, improper conduct or legal proceedings.

Providing access is likely to reveal evaluative information generated within the School/College in connection with commercially sensitive decision-making processes.

Ways of giving an individual access to information

Examples of the way in which the school could give access include:

- Providing a copy of information
- Letting the individual make notes of the contents of the record
- Giving the person a print out of the information if it is in electronic form
- Giving the individual an accurate summary of the information
- Letting the individual inspect the information the school holds about him or her
Charges

An organization is prohibited from charging an individual for lodging a request for access. An organization may charge a minimal amount for costs associated with providing access eg a minimal amount for photocopying etc.

Identification

It is imperative that the individual’s identity is established before providing access. A risk in the access process is that a person may try to obtain unlawful access to another individual’s information. In some cases, it will be necessary to verify the identification of a person requesting access. The school must ensure that its identification procedures minimize any risk of unlawful access. In most cases, parents may see records relating to their child unless there are special circumstances which prevent this.

Reasons for access

An individual is not required to provide a reason for requesting access. However, the school should ask the individual what information or what type of information he or she wants access to. This is likely to facilitate the individual accessing the information he or she is seeking.

Reasons for denying access

The school is required to provide reasons if access is denied. The reasons should be in writing.

Providing an area for inspection

Where feasible, the school should provide a private area where the individual can inspect information or where the individual can have information explained. The area should be supervised at all times to ensure that material is not removed from the files.

Correction requirements

The school must take reasonable steps to correct information if it is established that the information is not accurate, up to date, or complete. What is reasonable will depend on the circumstances. A school may not be obliged to correct personal information that is inaccessible and never likely to be used even if it is of poor quality. The school may agree to destroy such information depending on the circumstances.
**Disputed accuracy**

If an individual and the school are unable to agree about whether the information is accurate, up to date and complete, the school must, if requested by the individual, take reasonable steps to attach a statement from the individual to the information which states that the individual is not satisfied that this particular part of the information is accurate, up to date and complete.

**Process for requesting access**

- The request for access should be made to the Privacy Officer in writing and should state that the individual is making a request for access to their personal and sensitive information.

- The request for access must be signed by the individual (or, in the case of students, usually signed by the parent/guardian)

- Identity must be established (see note above regarding Identification)

- The school should acknowledge receipt of the request for access within 14 days of the receipt of the request.

- A decision to allow or deny access should be communicated to the individual within 30 days of receipt of the request.