



## INVESTIGATION REPORT 230-2017, 237-2017, 238-2017, 240-2017

### Good Spirit School Division

November 15, 2017

**Summary:** A principal within the Good Spirit School Division (Good Spirit) disclosed a list containing the personal information of all approved substitute teachers to a substitute teacher. Good Spirit proactively reported the privacy breach to the Information and Privacy Commissioner (IPC). The IPC found that the disclosure of the personal information of substitute teachers to the one substitute teacher was unauthorized under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The IPC made several recommendations to Good Spirit including providing a new notification to affected individuals and to increase the education it provides to employees on LA FOIP.

### I BACKGROUND

- [1] On or about September 7, 2017, a substitute teacher approached the principal of a school with the Good Spirit School Division (Good Spirit) to introduce herself. The principal was not able to identify the substitute teacher's name on a list of substitute teachers. He printed the list and provided it to the substitute teacher. He instructed her to inquire with Good Spirit's Central Office why she was not on the list.
- [2] The substitute teacher brought the list to Good Spirit's Central Office and inquired why her name was not on the list. An employee at the Central Office looked up the updated substitute list and noted that the substitute teacher was indeed on an updated list of substitute teachers.

[3] The employee reported the matter to Good Spirit’s Human Resources staff. It was noted that a list should not have been provided to the substitute teacher.

[4] On September 12, 2017, Good Spirit notified the affected individuals of the apparent privacy breach by sending a memo to them. It also provided my office with a copy of the memo. The memo stated the following:

On September 7, 2017, the substitute teaching list was provided to a prospective employee who did not have authority to receive the listing. The listing contained information for each substitute teacher including and limited to full names, email addresses and phone numbers. Some of this information may be considered personal.

This breach in confidentiality will be addressed with the individual who released it. Furthermore, measures will be taken with all employees who have access to this type of information to educate them on privacy to minimize the likelihood of such breaches occurring in the future.

If you have any questions, please contact central office at 306-786-5500.

[5] Soon after my office received a copy of the memo, a few of the affected individuals complained to my office. My office notified Good Spirit and the affected individuals that it would be undertaking an investigation.

## II DISCUSSION OF THE ISSUES

[6] Good Spirit is a local authority as defined by subsection 2(f)(viii) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

### 1. Is personal information involved in this matter?

[7] Subsection 23(1) of LA FOIP defines “personal information” as follows:

23(1) Subject to subsections (1.1) and (2), “personal information” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;

...

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual;

[8] In order to determine whether something is personal information, the following must be considered:

1. Is there an identifiable individual?
2. Is the information personal in nature?

[9] The substitute teacher verbally confirmed to Good Spirit that she had ripped up the list that was given to her. Therefore, Good Spirit is not sure precisely what list was provided to her. It suspects that it was an outdated version of the substitute teacher's list. If this is the case, then the following information about the substitute teachers was provided to her:

- First and last name of substitute teachers,
- Telephone numbers,
- Personal email addresses,
- Preferred grades,
- Preferred subjects,
- Schools they are available to teach,
- Notes about some of the teachers (such as availability).

[10] I find that the combination of the above information qualifies as personal information as defined by subsection 23(1) of LA FOIP.

## **2. Was there an unauthorized disclosure of personal information?**

[11] The term "disclosure" means the sharing of personal information with a separate entity that is not a division or branch of the local authority. A local authority must only disclose personal information pursuant to subsection 28(1) of LA FOIP, which provides:

28(1) No local authority shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of

the individual to whom the information relates except in accordance with this section or section 29.

[12] The principal had reported he did not recall printing the list but he knows that he showed the substitute teacher the list from his computer. Whether he provided a physical copy of the list or he had merely showed her the list, both instances would constitute a “disclosure”. He was sharing personal information with a separate entity – the substitute teacher – that is not a division or branch of the local authority.

[13] In this case, there is no authority under subsection 28(1) of LA FOIP to disclose the list to the substitute teacher. I find an unauthorized disclosure has occurred.

## **2. Did Good Spirit respond to the privacy breach appropriately?**

[14] My office suggests that local authorities undertake the following five steps when responding to a privacy breach:

- Contain the breach,
- Notify affected individual(s)
- Investigate the privacy breach
- Prevent future privacy breaches
- Write an investigation report.

[15] My office will analyze each step below.

### **Contain the breach**

[16] To contain the breach is to ensure the personal information is no longer at risk. This may include recovering the records, revoking access to personal information, and/or stopping the unauthorized practice.

[17] On September 14, 2017, Good Spirit had received verbal confirmation from the substitute teacher that she had ripped up the list.

[18] I find that Good Spirit’s containment of the privacy breach to be inadequate. In this case, it would have been ideal if Good Spirit made efforts to retrieve the list from her as soon as it suspected a privacy breach. This is so that Good Spirit can minimize the likelihood of the list not being misused or re-distributed.

### **Notification**

[19] Notifying affected individuals of the privacy breach is important so that individuals can determine how they have been impacted and they can take steps to protect themselves. An effective notification should include the following:

- A description of what happened,
- A detailed description of the personal information that was involved,
- A description of possible types of harm that may come to them as a result of the privacy breach,
- Steps that the individuals can take to mitigate harm,
- Steps the trustee is taking to prevent similar privacy breaches in the future,
- The contact information of an individual within the government institution who can answer questions and provide further information,
- A notice that individuals have a right to complain to the Office of the Information and Privacy Commissioner,
- Recognition of the impacts of the breach on affected individuals and an apology.

[20] Good Spirit proactively took the step to notify affected individuals by sending them a memo. It also forwarded the memo to my office. The memo is quoted in the background section of this report. The memo indicated that a “prospective employee who did not have authority” received a list containing the full names, email addresses and phone numbers of substitute teachers. The memo lacked the following details:

- The circumstances that led to the “prospective employee” receiving the list,
- Why a “prospective employee” would receive such a list,
- The memo indicated that full names, email addresses and phone numbers were involved but failed to indicate that the following types of information was also involved:
  - Preferred grades,
  - Preferred subjects,
  - Schools they are available to teach,
  - Notes about some of the teachers (such as availability).
- What Good Spirit has done to recover the personal information,

- The contact information for my office so that affected individuals know they have a right to complain to the Information and Privacy Commissioner,
- An apology.

[21] Insufficient details can easily lead the readers of the memo to a variety of inaccurate conclusions.

[22] Affected individuals are owed an accurate explanation of what happened when their personal information is lost. That is because LA FOIP requires Good Spirit to protect personal information it receives from individuals. LA FOIP also provides individuals, such as teachers and students, with privacy rights and the expectation that their personal information will be protected. In other words, Good Spirit is accountable to individuals who entrust their personal information to it.

[23] Further, an accurate explanation helps affected individuals determine for themselves if they should be concerned and if they should take action to protect themselves from harm.

[24] In this case, Good Spirit should have listed all the types of personal information that was involved in this privacy breach. Further, the recipient of the list should have been described as a “substitute teacher” instead of as a “prospective employee”. It should have also explained that it was a principal of a school who provided the list to the substitute teacher (even though he should not have done so).

[25] Good Spirit should have also included in its notification that it received verbal confirmation from the substitute teacher that she ripped up the list.

[26] Since Good Spirit is a local authority subject to LA FOIP, it has a duty to assist individuals. This includes keeping them informed of their rights under LA FOIP. One of these rights includes the right to complain to the Information and Privacy Commissioner if they are dissatisfied with how Good Spirit has responded to this privacy breach. Unfortunately, Good Spirit also did not include the contact information for my office in its memo.

[27] Finally, Good Spirit’s memo did not include an apology.

- [28] I find Good Spirit's memo to be an inadequate notification to affected individuals.
- [29] In the course of this investigation, my office recommended that Good Spirit draft a new notification to affected individuals containing the elements listed in paragraph [19]. Good Spirit responded that it would not be fully complying with the recommendation. It indicated that it offered a verbal apology to two affected individuals when they contacted Good Spirit about the privacy breach and it is willing to apologize to other affected individuals if they contacted it.
- [30] I continue to recommend that Good Spirit provide a new notification to affected individuals containing the elements in paragraph [19].

### **Investigate the breach**

- [31] Investigating the privacy breach to identify the root cause is key to understanding what happened and to prevent similar breaches in the future.
- [32] In its investigation, Good Spirit contacted the principal to obtain details of his interaction with the substitute teacher. He indicated that he knows he showed her the list on his computer but he does not believe he printed the list. He indicated that the interaction with her was not long and that it was "just a blip in the day that one does not give much lip service or thought to because of more important items". He indicated he did not even know the substitute teacher's name.
- [33] Regardless of whether he merely showed the substitute teacher the personal information or he gave her a list containing the personal information, it is alarming that the principal disclosed personal information even though he did not know the identity of the individual receiving the personal information. This indicates to my office that there is a lack of understanding of what personal information is and that there is a lack of policies, procedures, and training in place for how Good Spirit employees are to manage and protect personal information under LA FOIP.

### **Prevent the privacy breach**

- [34] Preventing future breaches means to implement measures to prevent future breaches from occurring.
- [35] Based on a telephone call with my office on October 6, 2017, Good Spirit indicated to my office that employees were reminded that personal email addresses qualify as personal information at a meeting for administrative assistants on September 14, 2017 and at a meeting for Administrators on September 28, 2017.
- [36] I find that the reminder is a good first step in preventing a similar privacy breach but insufficient in preventing similar privacy breaches in the future.
- [37] In the course of this investigation, my office recommended that Good Spirit develop specific policies and/or procedures for its employees on how to collect, use, and disclose personal information of both employees and students. In a letter dated November 10, 2017, Good Spirit responded by indicating it intended to comply with my office's recommendation. It also provided my office with a draft of an amended Administrative Procedure 180. One of its amendments is the "need-to-know" principle in that only those persons with a requirement to access personal information to perform their employment duties shall be allowed access to that personal information. This is important to note because further in its letter dated November 10, 2017, Good Spirit indicates that it may disclose the substitute list to an "approved substitute teacher" in case the substitute teacher is required to call in another substitute if they are unable to work. I recommend that Good Spirit ensure it has procedures in place so that only school administrators, not substitute teachers, have access to substitute teachers' personal information. This is in keeping with Good Spirit's Administrative Procedure 480, which provides that teachers are asked to give the principal, or his/her designate, as much notice as possible when they are going to be absent, and that it is principals who are to draw from the list of substitute teachers.
- [38] Also in the course of this investigation, my office had recommended that Good Spirit develop training based on such policies and/or procedures and require that each employee



take the training annually. Employees should be required to sign a form that indicates he or she has taken the training. The form should be placed in each employee's personnel file. In its amended draft version of its Administrative Procedure 180, Good Spirit provides that the Director of Education or designate shall, on an annual basis, facilitate education programs to provide instruction to principals and other staff members concerning the principles and application of LA FOIP. Further, its letter dated November 10, 2017 to my office indicated that Good Spirit will review administrative procedures regarding the collection, use, and disclosure of personal information at all start up meetings of staff that are held at the end of August each year. I find that this is a good first step by Good Spirit in training its employees. I recommend that Good Spirit strive to increase the education it provides to its employees on LA FOIP.

[39] Finally, in the course of this investigation, my office recommended that Good Spirit develop policies and/or procedures on how to respond to privacy breaches. In its letter dated November 10, 2017 to my office, it indicated that it will add an appendix to its Administrative Procedure 180 that outlines the procedures on how to respond to a privacy breach. It also provided my office with a copy of its appendix.

### **III FINDINGS**

[40] I find that the combination of the above information qualifies as personal information as defined by subsection 23(1) of LA FOIP.

[41] I find an unauthorized disclosure has occurred.

[42] I find that Good Spirit's containment of the privacy breach to be inadequate.

[43] I find that Good Spirit's memo to be an inadequate notification to affected individuals.

[44] I find that there is a lack of understanding of what personal information is and there is a lack of policies, procedures, and training in place for how Good Spirit employees are to manage and protect personal information under LA FOIP.

[45] I find that Good Spirit has taken some steps but can take further steps in preventing similar privacy breaches in the future.

[46] I find that Good Spirit is taking appropriate steps to train its employees of their responsibilities under LA FOIP.

#### **IV RECOMMENDATIONS**

[47] I recommend that Good Spirit draft a new notification to affected individuals containing the elements listed in paragraph [19].

[48] I recommend that Good Spirit implement its amended Administrative Procedure 180 on LA FOIP.

[49] I recommend that Good Spirit review its Administrative Procedure 180 annually to determine if it requires further revisions or amendments.

[50] I recommend that Good Spirit ensure it has procedures in place so that only school administrators, not substitute teachers, have access to substitute teachers' personal information.

[51] I recommend that Good Spirit strive to increase the education it provides to its employees on LA FOIP.

Dated at Regina, in the Province of Saskatchewan, this 15<sup>th</sup> day of November, 2017.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner