

Posting Information on Websites: Best Practices for Schools and School Boards

A Joint Project of

The Information and Privacy Commissioner/Ontario,

The Upper Grand District School Board

and

The Peterborough, Victoria, Northumberland and Clarington
Catholic District School Board



Information and Privacy
Commissioner/Ontario



*Peterborough Victoria
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Introduction

There is increasing interest amongst schools and school boards in creating their own websites as a way to support communication with their communities. In this context, websites can be utilized in many positive ways: highlighting initiatives and events; making available things such as policies, school profiles and course outlines; and providing links to educational sites.

But schools and school boards should exercise caution when posting information on websites. Information that may be relatively innocuous when hanging on the wall in a school corridor – such as a student’s name or photograph – may have serious privacy issues when posted on a website. This information, which can be downloaded and combined with other information, may result in a potentially significant invasion of privacy – and potentially lead to significant concerns about personal safety and security.

In creating websites, schools and school boards must be mindful of their obligations under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). First, they must consider the nature of the information they want to post on their websites and determine whether any of this information is “personal information.” If the information is personal information, then they must consider whether, by including this type of information on their websites, they are disclosing this personal information in accordance with the *Act*. In this regard, despite the possibility that other criteria under the *Act* might be considered to authorize such a disclosure, a best practice would entail only posting the personal information where consents have been obtained from all affected individuals or from a person who is legally authorized to consent on their behalf.

These best practices have been prepared jointly by the Office of the Information and Privacy Commissioner/Ontario, the Upper Grand District School Board and the Peterborough, Victoria, Northumberland and Clarington Catholic District School Board. Although these best practices focus on issues frequently dealt with by schools and school boards, other municipal institutions and provincial institutions can refer to these best practices for guidance when considering posting information to their websites.



Access and Privacy on the Internet: What has Changed?

For some time now, schools and school boards have been using newsletters and other print materials to communicate education-related information to parents and students.

Increasingly, schools and school boards are using the Internet to disseminate information to students, parents and the public at large.

The Internet challenges us to think about access and privacy in new ways. While it offers access to information at an unprecedented level and speed, the Internet can also threaten our privacy as never before. It is critical that we be aware of these challenges so that we are in a better position to maximize the benefits of the Internet and minimize any loss of privacy. There is a balance that must be struck between the free flow of information and the protection of personal privacy.

The Internet is in its infancy and is still not well understood by the average user. The same technology that can be used to make our lives easier can also become an intrusion. For example, search engines can scour more than a billion web pages for pertinent information at the request of the user. By simply typing a student's name into a search engine, a user can compile a profile of a student based on every indexed web page. Depending on what the schools and school boards post on their websites, this profile may consist of information such as where the student attends school or the student's extracurricular activities and schedules. When this information is combined, it can be used, for example, to pinpoint a student's location at a particular time.

While parents may be proud of their child's academic and extracurricular accomplishments, not every parent may be comfortable having their child's achievements displayed on the school website. In the past, while students' personal information may have been publicly available, that information may have been located in one place or a limited number of places. In this way, information, although publicly available, was not necessarily readily accessible to the world at large. This was the case, for example, with school yearbooks being kept in school libraries. By contrast, that same information, once posted to a website, can be viewed by anyone in the world with access to a computer. With the click of a mouse, the information could then be copied and manipulated. With this in mind, it is easy to see why there may be reason for concern in certain circumstances.

Role of Information and Privacy Co-ordinator

Awareness is key. It is important for Information and Privacy Co-ordinators to not only think critically about what is being posted to their websites, but also to make others in their institutions aware. The more time spent trying to understand the potential consequences at the outset, the less time and energy required to remedy unforeseen and often irreversible damage. As the school boards' access and privacy professionals, Co-ordinators must become involved during the development stage of all website projects. The issues that Co-ordinators could bring forward include the following:

- The collection, use, and disclosure of personal information must take place within the framework of the *Act*.
- If the website requires or invites users to provide personal information, the school board must ensure that the *Act* authorizes collection of that information for the particular purpose. The school board must provide notice regarding the collection and its purpose, and ensure that the information is retained for the period specified by regulation or retention schedule. The school board should also ensure proper protection from unauthorized access, and make provision for access to one's own information.
- Consider the issue of disclosure of personal information. This issue may be particularly important with respect to posting records that may contain personal information (e.g., yearbooks, photographs, names of Ontario scholars). How could information be changed, combined or matched?
- If individuals are offered online access to their own information, is there adequate protection from unauthorized access and from manipulation and alteration?



What Types of Information Should Schools and School Boards Post on their Websites?

It is anticipated that schools and school boards may wish to post a variety of information to their websites. In order to assist in determining which types of information should be posted, we have provided some examples of school and school board-related information and have categorized them as being (1) general information, (2) personal information or (3) information that may be personal information, depending on its content.

General Information

It should be noted that general information is not subject to the privacy protection provisions of the *Act*. For information to be considered general information, it cannot be about an identifiable individual. (See Appendix A for section 2 of the *Act*.)

Examples of general information that schools and school boards may wish to include on their websites are:

- School location
- School history (without personal information of any individuals)
- School profile
- School mission statement
- School logo, dress code
- School calendar and holidays
- School style guide
- School community partnerships
- Photographs of school building
- School board/school ranking in provincial/national tests
- Homework assignments and deadlines
- School and board policies
- Course descriptions
- School e-mail addresses that do not identify individuals (e.g., student_council@namedhighschool.ca)

General information may also include information that relates to individuals' professional responsibilities. Examples of this type of information are:

- Staff list with staff members' names, title, contact information, department and grade taught
- Names of staff members responsible for extracurricular activities

Personal Information

As a general principle, schools and school boards should not post personal information on their websites. If schools or school boards do so, they must obtain written consent of the individual(s) to whom the information relates.

Personal information is defined in section 2 of the *Act* as “recorded information about an identifiable individual.” The definition lists some examples of the types of information that qualify as “personal information.”

Section 32 of the *Act* allows schools and school boards to disclose an individual's personal information if the individual has consented to the disclosure (section 32 (b)). Section 32 also provides circumstances where disclosure is permitted but, as previously noted, it is a best practice to acquire consent prior to the disclosure of information about students or parents on a school or school board website. (See Appendix A for sections 2 and 32.)

Types of Personal Information

Schools and school boards hold many different types of personal information. Due to the nature of certain types of personal information, some information should never be included on school or school board websites. This would include:

- Student's report card and academic transcript
- Student's Ontario Student Record (OSR)
- Student's name, telephone number, home address, personal e-mail address
- Parent's name, telephone number, home address, personal e-mail address

There may be other types of personal information where it might be appropriate for the school or school board to post the information, provided the individual(s) have given their written consent. This could include:

- Photographs of students (individual and/or group)
- Students' work (e.g., essays, projects, etc.)
- Names of students participating in extracurricular activities and student council
- Names of student award-winners/prize-winners
- School yearbooks (names and photographs)



Informed Consent

Although some students may not be concerned about their personal information being posted on the school or school board website, there will be others who are apprehensive. In general, consent to post a student's personal information should be obtained in advance. One approach would be to obtain consent for each specific item of personal information as it is to be posted on the school's website. A more practical approach may be to seek such consent at the beginning of each school year.

Regardless of how often the school or school board obtains consent, the consent must be *informed consent*. Informed consent requires that the person consenting understand the exact nature of the information for which consent is sought, the potential consequences of signing the consent form, and be given the right to revoke the consent at any time.

A model consent form has been developed which schools and school boards can use in relation to posting students' personal information to their websites. (See Appendix C.) The model consent form provides for informed consent; it contains a specific description of the information to be posted, the implications of posting the information and the right for the individual to revoke his/her consent at any time. An explanatory note to accompany the consent form has also been prepared. (See Appendix D.)

The model consent form in Appendix C also indicates who should sign the consent (i.e., student or parent/legal guardian) in order for the consent to comply with applicable legislation. Who signs the consent depends essentially on the age of the student. For students under 16 years of age (and who are not turning 16 during the school year), a parent or the person having lawful custody should sign the consent. Where the parents are separated or divorced, the parent with lawful custody should sign the consent. In cases of joint custody, either parent may sign, but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

For students who are 16 or 17 years of age (including those who turn 16 during the school year), both the student and a parent (or the person having lawful custody) should sign the consent. Again, where the parents are separated or divorced, the parent with lawful custody should sign the consent. In cases of joint custody, either parent may sign, but it may be advisable to get both parents' signatures. Where the parents are separated or divorced, the parent with lawful custody should sign the consent. In cases of joint custody, either parent may sign, but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

For students aged 18 years or over, the student should sign the consent – consent of a parent or the person having lawful custody is not required.

The reason for both the student and parent/legal guardian providing the consent, where the student is 16 or 17, is due to a possible conflict between the *Act* and the *Education Act* regarding the age for consenting to disclosure. As noted earlier, section 32(b) of the *Act* allows school boards to disclose an individual's personal information with the consent of the individual. Section 54(c) of the *Act* permits an individual having lawful custody of a child under 16 years of age to provide consent on the child's behalf. The *Education Act* speaks to access to the Ontario Student Record and the right of parents and students to have access and their rights to consent to other individuals having access. Under the *Education Act*, a student who has attained the age of 18 years may provide consent for others to access his/her Ontario Student Record. (See Appendix B for section 266(10) of the *Education Act* and sections 1 and 3(1) of the *Age of Majority and Accountability Act*.) Given the inclusion of personal information in an Ontario Student Record and the possible conflict between the *Act* and *Education Act* regarding the age of consent for disclosure, it is recommended, as a practical measure, that the consent of both the student and parent (or legal guardian) be obtained for those students who are 16 or 17 years of age during the school year.

In summary,

- a) For students under 16 years of age during the school year – consent of parent

For students who are under 16 years of age during the school year, a parent should sign the consent form. Where the parents are separated or divorced, the consent form should be signed by the parent with lawful custody and in cases of joint custody, may be signed by either parent – but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

- b) For students 16 or 17 years of age during the school year – consent of both student and parent

For students who are 16 or 17 years of age during the school year (including those turning 16 during the school year), both the student and a parent should sign the consent form.

Where the parents are separated or divorced, the consent form is to be signed by the parent with lawful custody and in cases of joint custody, may be signed by either parent – but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

- c) For students who are 18 years of age or older – consent of student

For students 18 years of age or over, the student should sign the consent form. A parent or the person with lawful custody of the student need not sign the consent form.



For those situations where an individual whose consent is required is mentally incapable and a substitute decision-maker has been appointed under Ontario law to act on his/her behalf, then the individual appointed as substitute decision-maker should sign the consent form.

The model consent form can be modified for situations where schools and school boards wish to post personal information of individuals other than students (e.g., staff, volunteers and/or community members).

Information that may be Personal Information, Depending on its Content

Certain types of information may not appear to be personal information, but depending on the content, **may contain** personal information. For example:

- School newsletters
- Minutes of meetings
- Information on school events (e.g., fund-raisers, drama productions, athletic competitions, science fairs)

These documents need to be reviewed on a page-by-page basis. If they contain personal information, they should be posted to the website only if the personal information is edited out or if the individuals to whom the personal information relates have consented to its posting.

Best Practices

In order to provide some guidance, schools and school boards should consider the best practices below before posting information on their websites.

Step 1: Develop Website Policies and Procedures

Schools and school boards should develop policies and procedures regarding the posting of information to their websites that include:

- What types of information will be posted to the website
- Who will be responsible for determining the information to be posted (including, where applicable, removing personal information)
- Procedure for obtaining consents
- Who will be accountable and responsible for responding to any complaints that might arise

In addition, schools and school boards should post their privacy policies on their websites.

Step 2: Review and Categorize the Information to be Posted

Based on the definition in section 2 of the *Act*, determine whether any of the information is personal information. In making this assessment, here are some things to consider:

- Does the information describe an individual's professional responsibilities?

Information that relates to an individual's professional responsibilities is generally not considered to be personal information, as it is not considered to be **about** an individual in a personal sense.

There may, however, be certain situations, such as photographs of staff and volunteers, where it may be advisable to obtain these individuals' written consents, before posting their photographs.

- Does the information contain the name of an individual in conjunction with other information relating to the individual? Would the disclosure of the individual's name reveal other personal information about the individual?



Certain information might become personal information by virtue of its inclusion on a particular website. For example, while a student's name alone would not be personal information, the inclusion of a student's name on a particular school website would indicate that the student attends that school. The result of linking these two pieces of information renders it information about an individual and is thereby personal information.

- Although the information may be anonymized, can the individual still be identified? For example, using a student's first name or initials may still enable others to identify the individual in some circumstances.

For further information about what constitutes personal information, staff should contact the school board's Freedom of Information and Privacy Co-ordinator or refer to Management Board Secretariat's Corporate Freedom of Information and Privacy Office. Additionally, IPC orders dealing with the interpretation of personal information, available on the IPC website (www.ipc.on.ca), may provide further guidance.

Step 3: What to do if the Information is "Personal Information"

If the information is personal information, you must determine to whom the personal information relates. This is important in terms of obtaining the appropriate consent. In some cases, the information may be the personal information of more than one individual. Here are some things to consider:

- Is it the personal information of a student, teacher, parent or member of the community?
- Where there is more than one individual to whom the personal information relates, obtain all necessary consents.
- Ensure that the information described in the consent covers the information to be posted.
- Ensure that the consent is valid and the individual has not sent written notice revoking the consent.

Step 4: What to do if the Information is "General Information"

If the information is general (and not personal) information, there are no privacy provisions of the *Act* that must be considered, though you may want to assure yourself that there are no security or safety issues that may arise. For example, if general information is linked to other known information, would posting the information on the school's or school board's website jeopardize an individual's safety? While not a privacy issue, schools and school boards should give this question serious consideration.

Conclusion

Schools and school boards have turned to the Internet as a way to increase communication within their communities. By creating their own websites, they are able to highlight initiatives and events, provide links to educational sites and make available school policies, course outlines and school profiles.

However, schools and school boards must exercise caution when posting information on their websites and must be mindful of their obligations under the *Municipal Freedom of Information and Protection of Privacy Act*.

By adhering to the best practices outlined in this document, schools and school boards will be in a good position to find the balance that must be struck between the free flow of information and the protection of personal privacy.



Appendix A — Sections of the *Municipal Freedom of Information and Protection of Privacy Act*

Section 2 – Definition of Personal Information

In this Act, ...

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) 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,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) 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,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual’s name where 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;

Section 32 – Disclosure of Personal Information

32. An institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part I;
- (b) if the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) if the disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and if the disclosure is necessary and proper in the discharge of the institution's functions;
- (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament, an agreement or arrangement under such an Act or a treaty;
- (f) if disclosure is by a law enforcement institution,
 - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
 - (ii) to another law enforcement agency in Canada;
- (g) if disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates;
- (i) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (j) to the Minister;
- (k) to the Information and Privacy Commissioner;
- (l) to the Government of Canada or the Government of Ontario in order to facilitate the auditing of shared cost programs.



Section 54 – Exercise of Rights of Individuals Less than 16 Years of Age

54. Any right or power conferred on an individual by this Act may be exercised,

- (a) if the individual is deceased, by the individual's personal representative if exercise of the right or power relates to the administration of the individual's estate;
- (b) by the individual's attorney under a continuing power of attorney, the individual's attorney under a power of attorney for personal care, the individual's guardian of the person, or the individual's guardian of property; and
- (c) if the individual is less than sixteen years of age, by a person who has lawful custody of the individual.

Appendix B — Other Statutory Provisions

Section 266(10) of the *Education Act*

Secrecy re contents

(10) Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record that comes to the person's knowledge in the course of his or her duties or employment, and no such person shall communicate any such knowledge to any other person except,

- (a) as may be required in the performance of his or her duties; or
- (b) with the written consent of the parent or guardian of the pupil where the pupil is a minor; or
- (c) with the written consent of the pupil where the pupil is an adult.

Sections 1 and 3(1) of the *Age of Majority and Accountability Act*

Age of majority

1. Every person attains the age of majority and ceases to be a minor on attaining the age of eighteen years.

References to “minor” and similar expressions

3.(1) In the absence of a definition or of an indication of a contrary intention, section 1 applies for the construction of the expression “adult”, “full age”, “infant”, “infancy”, “minor”, “minority” and similar expressions in,

- (a) any Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature; and
- (b) any deed, will or other instrument made on or after the 1st day of September, 1971.



Appendix C — Model Consent Form

Model Consent Form for Posting Student's Personal Information to School or School Board Website

By signing this document, I/we consent to the disclosure of personal information about (NAME OF STUDENT) by posting it to the website of (NAME OF SCHOOL OR SCHOOL BOARD) (the "website"). This consent only applies to the items below that I/we have initialled:

- _____ Photograph of (NAME OF STUDENT)
- _____ Group and class photographs including (NAME OF STUDENT)
- _____ Essays written by (NAME OF STUDENT)
- _____ Projects done by (NAME OF STUDENT)
- _____ Awards, scholarships, prizes received by (NAME OF STUDENT)
- _____ Participation of (NAME OF STUDENT) in any extracurricular activities
- _____ (OTHER SPECIFIC ITEMS IDENTIFIED BY SCHOOL OR SCHOOL BOARD – PLEASE SPECIFY)

I/we have read and understood the (NAME OF SCHOOL OR SCHOOL BOARD)'s policy on school websites. I/we are aware that by giving this consent, I/we are permitting personal information about (NAME OF STUDENT) to be posted to the (NAME OF SCHOOL OR SCHOOL BOARD WEBSITE), which can be viewed by anyone who accesses the (NAME OF SCHOOL OR SCHOOL BOARD WEBSITE) website, and that if consent were withheld, this posting would not occur.

I/we further understand that this consent is valid for one year and may be withdrawn by me/us at any time, upon written notice. In the event that consent is withdrawn, I/we understand that the information about (NAME OF STUDENT) will be removed from the website.

I/we have given this consent voluntarily.

Signed at _____ on _____.
(PLACE OF SIGNATURE) (DATE)

a) For students under 16 years of age: signature of parent (or legal guardian)

Signature of Parent or Legal Guardian*

Witness

b) For students aged 16 or 17 during the school year: signature of both student and parent (or legal guardian)

Signature of Student

Witness

Signature of Parent or Legal Guardian*

Witness

c) For students 18 years of age or over: signature of student

Signature of Student

Witness

*Note: Only persons having lawful custody of the student may sign this consent form as parent or legal guardian. If both parents have lawful custody, one or both may sign.



Appendix D — Explanatory Note – Model Consent Form

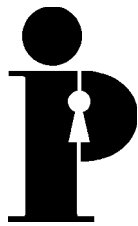
This consent form has been developed to meet the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* and the *Education Act* for the disclosure of personal information. In keeping with internationally recognized privacy standards, this form provides for consent that is both informed and voluntary, and relates to clearly identified information to be used and disclosed for clearly defined purposes.

Where the student is under 16 years of age (and is not turning 16 during the school year), the consent should be provided by a parent or the person having lawful custody of the student. Where the parents are separated or divorced, the consent form should be signed by the parent with lawful custody and in cases of joint custody, may be signed by either parent – but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

Where the student is either 16 or 17 years of age (or is turning 16 during the school year), the consent should be provided by both the student and a parent (or the person having lawful custody). Where the parents are separated or divorced, the consent should be signed by the parent with lawful custody and in cases of joint custody, may be signed by either parent – but it may be advisable to get both parents' signatures. Where someone other than a parent has lawful custody of the student (i.e., legal guardian), that person should sign the consent form.

Where the student is 18 years or over, the consent should be provided by the student. A parent or the person with lawful custody need not provide consent.

For those situations where an individual whose consent is required is mentally incapable and a substitute decision-maker has been appointed under Ontario law to act on his/her behalf, then the individual appointed as substitute decision-maker should sign the consent form.



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