

# Education Statutes Amendment Act (Bill 11)

Bringing BC Student Personal Information into alignment with  
the *Freedom of Information and Protection of Privacy Act*  
(FOIPPA)

Knowledge Management Branch  
Knowledge Management Accountability Division  
Ministry of Education

2015



# What is Bill 11?

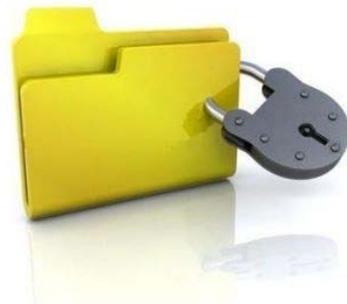
The *Education Statutes Amendment Act* (Bill 11) was passed in the Spring 2015 legislative session.



- Brings student personal information into alignment with the more modern provisions and safeguards of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).
- Improves the protection of student personal information.

# Personal Education Number Use Provisions Before Bill 11

- Every student in British Columbia who attends school in British Columbia is assigned a Personal Education Number (PEN).
- The PEN is considered student personal information and is a direct identifier that follows the student throughout their involvement with the K to 12 school system.
- Under the Section 170.1(3) of the *School Act*, the use of the PEN was controlled by a strict prohibitions and uses not specified, even those that were consistent with FOIPPA, were not permitted.



# What was Prohibited by the Use Provisions Before Bill 11?

**ALL** uses of student personal information **NOT** specified by the *School Act* were **prohibited**.

The former *School Act* legislation outlined specific uses & by doing so prohibited a wide variety of uses of student personal information consistent with *FOIPPA*.

Examples of PEN uses that were technically prohibited by the School Act:

- Research on transitions into the trades and/or job market using the PEN
- PEN matching for Jobs Plan
- PEN matching for Healthy Schools BC
- Using the PEN to ensure data quality
- Administering the Erase Bullying program
- Working with law enforcement with respect to missing/at-risk children



# Why were changes made?

- Student information needed to be aligned with the more modern provisions and safeguards of the *Freedom of Information and Protection of Privacy Act*.
- Access to high-quality data was needed to improve education and other government programs and to monitor the impact of new curriculum and other innovations.
- Research initiatives were being denied.

Continuing to **protect** personal student information.



## What changes after the amendments?

- The scope of analysis and research regarding students that can be undertaken is broadened as information sharing and data linkage consistent with FOIPPA is allowed.
- Analysis is enabled and will provide a better understanding of the services and policies that meet the needs of students and will improve the efficiency and effectiveness of the education system.



# What does NOT change?

- Legislation that governs the collection, use and disclosure of personal information applied before and continues to apply after the amendments were made.
- Data collection, management processes, and the **protection** of student personal information remains **unchanged** for both the Ministry and the School Districts.
- Access to personal information is provided in accordance the principles of “need-to-know” and “least-privilege”.



# FOIPPA and PIPPA – What Applies to Who and Does What?

## *Freedom of Information and Protection of Privacy Act (FOIPPA)*

- Applies to all public bodies – including school districts and public schools.
- Brought into force in 1993.
- Prevents unauthorized collection use and disclosure of personal information.

## *Personal Information Protection Act (PIPA)*

- Applies to all private sector organizations – including independent schools.
- Brought into force in 2004.
- Prevents unauthorized collection, use and disclosure of personal information.

# Purposes of privacy legislation?

## **Makes organizations more accountable by:**

- Providing a right of access to records.
- Specifying limited exceptions to the right of access.
- Providing for an independent review of decisions made under the act.

## **Protects Privacy by:**

- Providing a right to request correction.
- Preventing the unauthorized collection, use or disclosure of personal information.
- Requiring conditions for collection, use, & disclosure of personal information.

# Coverage of FOIPPA

Applies to:

ALL records In the custody or under the control of a public body.



# Information Management

## Guiding Principles

Right Information

Right Person

Right Purpose

Right Time

Right Way

- Managed based on the **need-to-know** and **least privilege** principles
- Access only to the minimum amount of personal information required to perform employment duties.
- Access permissions should be assigned consistently and kept up to date.

# Collection of Personal Information

Governed by *FOIPPA* and the School and Student Data Collection Minister's Order, and *The School Act*.

Personal information can only be collected if:

- Authorized under an Act
- For law enforcement
- Related directly to and necessary for an operating program or activity of a public body
- Consent in limited circumstances (set out in regulations)
- Necessary for planning or evaluating a program or activity of the public body
- The information is collected by observation at a public and voluntarily attended presentation, ceremony, performance, sports meet or similar event.
- Other authorities (domestic violence, provincial identity services).

# Use & Disclosure of Student Personal Information

- A school district may only use personal information for the purpose for which it was obtained or compiled, or for a consistent purpose.
- Disclosure is governed by the new section 170 of the *School Act* and *FOIPPA*.
- Under the new **section 170**, a public body must not disclose personal information in a student record except as authorized by *FOIPPA*, or to ensure the efficient and effective use of operating grants, or to evaluate the effectiveness of a board.



- **Section 81** of the *School Act* (which governs School Board to Ministry disclosure only) has not changed.

# MyEd BC

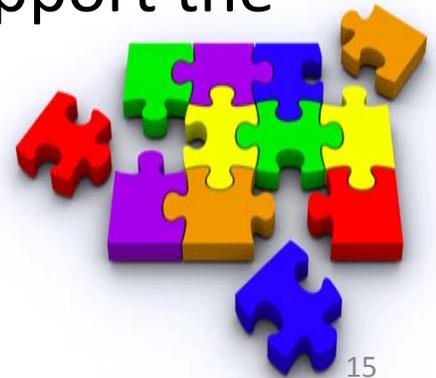
- Designed to meet and exceed all *FOIPPA* & *PIPA* requirements for privacy and security of student information.
- Privacy Impact Assessment (PIA) completed for the province.
- School Districts are required to complete their own PIA. A template for school districts to use was created in collaboration with the OCIO.
- Training for users was created and can be found at:

<http://mytrainingbc.ca/myedPOI/overview/001.html>



# What's Different Now?

- Problems associated with using the PEN in an administrative setting are resolved.
- Research involving PEN associated student data is permitted based on *FOIPPA*.
- Education data can now be used for analysis and research on social services, or for student transitions into trades training or the job market.
- The amendments allow for a broader scope of student related analysis and research to support the transformation of the education system.



# FAQ's

**Q: Will there be a great deal of effort needed for School Districts to comply with the *Education Statutes Amendment Act (ESSA)* with respect to student personal information?**

- The ESSA aligns collection, use and disclosure of PENs with FOIPPA.
- School districts have been subject to the requirements of FOIPPA with respect to student personal information ***since 1993.***
- The Office of the Chief Information Officer and the Office of the Information and Privacy Commissioner provides guidance and information for School Districts to assist them in complying with FOIPPA.

# FAQs

**Q: Are there already guidelines developed for the collection, disclosure and use of student personal information by school districts?**

**YES.** There are several resources available to **school districts** including:

- Core Policy and Procedures Manual
- The Office of the Chief Information Officer
- The Office of the Information and Privacy Commissioner.



# Useful Links

Core Policy and Procedures Manual:

[http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/12\\_Info\\_Mgmt\\_and\\_Info\\_Tech.htm](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/12_Info_Mgmt_and_Info_Tech.htm)

OCIO – Freedom of Information and Protection of Privacy - Public Sector (includes Policy & Procedures Manual; PIA Process with Template; Contracting link to PPS; etc):

[http://www.cio.gov.bc.ca/cio/priv\\_leg/foippa/index.page?](http://www.cio.gov.bc.ca/cio/priv_leg/foippa/index.page?)

The Freedom of Information and Protection of Privacy Act:

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)

BC Office of the Information and Privacy Commissioner: <http://www.oipc.bc.ca/>

Federal – Office of the Privacy Commissioner of Canada: <http://www.priv.gc.ca>

B.C. Privacy and Access Helpline phone: 250-356-1851 Email: [Privacy.Helpline@gov.bc.ca](mailto:Privacy.Helpline@gov.bc.ca)



# The Future: Protecting Student Privacy while Enabling Evidence Informed Education Policy

- Student personal information use is aligned with the stronger provisions and safeguards of FOIPPA.
- Information sharing is consistent with FOIPPA and enables the design and evaluation of programs and services for students across public sector organizations.
- Evidence informed education policy will better meet the needs of students. The complex set of factors driving student performance will enhance understanding by all education partners.



# Questions?

## **B.C. Privacy and Access Helpline**

For public bodies and private sector organizations with inquiries specific to privacy matters in general please contact us through the B.C. Privacy Help Line at:

**Phone: 250-356-1851**

**Email: [Privacy.Helpline@gov.bc.ca](mailto:Privacy.Helpline@gov.bc.ca)**

Darlene Therrien, Ministry of Education, 250-217-2818

Knowledge Management Branch.

