



The Alberta Teachers' Association

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2022 06 23

Commissioner Jill Clayton
Office of the Information and Privacy Commissioner of Alberta
#410, 9925 - 109 Street
Edmonton, Alberta
T5K 2J8

Dear Ms Clayton

Re: Urgent request for investigation by the Commissioner under Section 53 of the
Freedom of Information and Protection of Privacy Act (FOIP)

Please see the text of two attached e-mails:

1. 2022 06 21 e-mail from Alberta Education (the public body) Deputy Minister re Online Teacher and Teacher Leader Registry; and
2. 2022 06 23 e-mail from Jonathan Teghtmeyer (ATA Staff) including the text from the online TWINS registry system outlining information being compelled from teachers by the public body.

For the reasons set out below, the Association makes this urgent request that you exercise your powers outlined in Sections 53(1)(a)(i)&(ii), 53(1)(f), 53(1)(g), and 53(2)(e) of the Act.

Background

On 2022 06 21 Alberta Education announced via e-mail that, under the *Education Statutes (Students First) Amendment Act, 2021*, a public facing online teacher and teacher leader registry will be activated by the public body. In that e-mail an exemption process is mentioned. See e-mail No 1.

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Summary of Concerns

On 2022 06 23, the Association was made aware of the extent of the sensitive personally identifiable information being demanded by the public body for an exemption to be secured. See e-mail No 2.

The Association is profoundly concerned that the information required to be provided and/or uploaded by vulnerable teachers requiring protection from harassment or violence represents overreach by the public body contrary to the FOIP Act.

1. The demand that such wide-ranging sensitive personally identifiable records be uploaded to the public body raises questions under Section 33 of the Act.
2. The public body is demanding that sensitive personally identifiable records be uploaded via e-mail without any reference to the records' confidentiality being restricted to the Registrar of Alberta Education, or to the records' security, retention and eventual secure destruction.
3. The Association questions whether the public body possesses the competence or authority to properly assess the risk attached to individual teachers based on this overreach. To date, the Registrar of Alberta Education has had no such responsibility. The risk of significant harm to vulnerable teachers and those supporting them as a result of an exemption rejection by the Registrar cannot be overstated.
4. The demand reads in part, "An exemption may be granted under the *Education Act*, in specific circumstances where inclusion of an applicant's name in the Teacher and Teacher Leader Online Registry. . . could cause injury or hardship to any person." (E-mail No 2, paragraph 1, bullet 3). This demand effectively requires the exemption applicant potentially to provide personally identifiable and sensitive information about third parties including children, family members and/or advocates. A similar demand is made in e-mail No 2, paragraph 4, bullet 4.
5. The Association is concerned over the possibility of the public facing registry disclosing individuals' previous legal names. Two examples of the problematic nature of such disclosure follow. First, this disclosure may endanger teachers with respect to maiden vs married names for victims of intimate partner violence. Second, "dead" legal names may be disclosed for some LGBTQ2+ teachers. In both examples, personal safety, wellness and privacy could be compromised.
6. The public body's demand for sensitive personal information follows the form of negative consent. (See Investigation Report F2002-001IR at para. 35.)

. . . continued

Clayton, 2022 06 23, p 3

Commissioner Work concluded:

The Public Body says that it has received only the one complaint about the practice. However, lack of complaints is a valid indicator only where negative consent procedures are the accepted process. The Act does not allow for the concept of negative consent. So, the lack of an expressed block on disclosure from an individual cannot be taken as agreement by that individual to a disclosure. [Emphasis added.]

7. The public body proposes to include individuals' teaching certificate status back to 1954. This information is unlikely to be current, accurate or complete as required by Section 35 of FOIP.

The capture dates of 1954 to present are unreasonable in that they will disclose personal information about individuals who are: (1) no longer in the profession; or (2) that of deceased persons whose information remains within the 25-year protection period outlined in FOIP section 17(2)(i).

To conclude, the Association emphasizes that time is of the essence in this matter as the implementation date for the public facing online registry is 2022 09 01 and the risk of significant harm to vulnerable teachers is high.

Sincerely

Original signed and transmitted 2022 06 23

Dennis Theobald
Executive Secretary

DET/MAS/ap
Enc (2)

From: EDC Deputy Minister <EducationDeputyMinister@gov.ab.ca>

Sent: Tuesday, June 21, 2022 2:05:19 PM

Subject: Time-sensitive information: Online Teacher and Teacher Leader Registry / Information urgente sur le registre en ligne des enseignants et des leadeurs scolaires

To: **Superintendents of Public, Separate, Francophone and Charter School Authorities**
Independent (Private) School Authorities
ECS Private School Operators
First Nations Education Directors
Executive Directors of Stakeholder Associations
AISCA (Association of Independent Schools & Colleges in Alberta)
ASBA (Alberta School Boards Association)
ATA (Alberta Teachers' Association)
CASS (College of Alberta School Superintendents)
TAAPCS (The Association of Alberta Public Charter Schools)

Subject: Time-sensitive information: Online Teacher and Teacher Leader Registry

Le texte français suit le texte anglais. French text follows English text.

Dear colleagues:

Alberta's government passed the Education Statutes (Students First) Amendment Act, 2021 to ensure greater transparency and accountability and further elevate the status of the teaching profession.

Under the act, on September 1, 2022, the online teacher and teacher leader registry will be activated and maintained by the Office of the Registrar at Alberta Education. The public online registry will include the names of all Alberta-certificated teachers and teacher leaders, as well as information about the type of certificate they hold, dating back to 1954. The registry will also provide information regarding any teacher or teacher leader who has had their certificate suspended or cancelled for unprofessional conduct or professional incompetence, dating back to 1990.

School authorities should have recently made certificated staff submissions to the Office of the Registrar, through the Teacher Workforce Information System (TWINS), for all certificated teachers and teacher leaders they employ, regardless of the employment position in their school authority. If your school authority has not yet had the opportunity to complete this annual spring submission, please do so as soon as possible. The submission of this information helps ensure that the Registrar has access to accurate and current information for all certificated staff employed by a school authority.

Alberta Education's Registrar will be sending all teachers and teacher leaders information about the online registry, either by email or postal mail based on their last known address in the TWINS registry. The information will advise teachers and teacher leaders about the online public registry and will inform them about the exemption application process for the online registry. The exemption application process is time-sensitive.

Certificated teachers and teacher leaders must apply to the Registrar to seek an exemption from having information related to their professional standing included in the searchable online teacher and teacher leader registry. Exemptions will be rare and determined on a case-by-case basis. The Registrar may consider an exemption and not publish information in specific circumstances where:

- publishing the information is not in alignment with another enactment in Alberta or Canada;
- there is an order issued by a court to not make information public; or
- disclosing such information could cause injury or hardship to a person.

Attached is a fact sheet that has been prepared for teachers and teacher leaders with further information about the online teacher and teacher leader registry.

I appreciate your co-operation in bringing this important information to the attention of teachers and teacher leaders.

Sincerely,

Andre Tremblay
Deputy Minister of Education

Attachment:
Teacher and Teacher Leader Online Registry Fact Sheet

Objet : Information urgente sur le registre en ligne des enseignants et des leaders scolaires

Chers collègues:

Le gouvernement de l'Alberta a adopté la loi *Education Statutes (Students First) Amendment Act, 2021* pour assurer une plus grande transparence et responsabilisation et élever davantage le statut de la profession enseignante.

En vertu de cette loi, dès le 1^{er} septembre 2022, le registre en ligne des enseignants et leaders scolaires sera activé et géré par le Bureau du registraire d'Alberta Education. Le registre public en ligne comprendra le nom de tous les enseignants et leaders scolaires brevetés de l'Alberta, ainsi que de l'information sur le type de brevet qu'ils détiennent, remontant à 1954. Le registre fournira également de l'information sur tout enseignant ou leader scolaire dont le brevet a été suspendu ou annulé pour conduite non professionnelle ou incompétence professionnelle remontant à 1990.

Les autorités scolaires devraient avoir récemment soumis au Bureau du registraire, par le biais du site Web « Teacher Workforce Information System (TWINS) », de l'information pour tous les enseignants et leaders scolaires brevetés qu'elles emploient, quel que soit le poste occupé dans leur autorité scolaire. Si votre autorité scolaire n'a pas encore eu l'occasion de remplir cette soumission annuelle du printemps, veuillez le faire dès que possible. La soumission de cette information permet au Bureau du registraire d'accéder à des informations exactes et à jour pour tout le personnel breveté.

Le registraire d'Alberta Education enverra à tous les enseignants et leaders scolaires des renseignements sur le registre en ligne, soit par courrier électronique, soit par courrier postal, en fonction de leur dernière adresse connue dans le registre TWINS. Ces renseignements informeront les enseignants et leaders scolaires sur le registre public en ligne et les informeront sur le processus de demande d'exemption pour le registre en ligne. Le processus de demande d'exemption est urgent.

Les enseignants et leaders scolaires brevetés doivent s'adresser au registraire pour demander une exemption afin que les informations relatives à leur statut professionnel soient exclues du registre interrogeable en ligne des enseignants et leaders scolaires. Les exemptions seront rares et déterminées au cas par cas. Le registraire peut envisager une exemption et ne pas publier de l'information dans des circonstances spécifiques lorsque :

- la publication de l'information n'est pas conforme à une autre loi en Alberta ou au Canada;

- il y a une ordonnance émise par un tribunal pour ne pas rendre l'information publique; ou
- la divulgation de telle information pourrait causer des préjudices ou des difficultés à une personne.

Vous trouverez ci-jointe une fiche d'information qui a été préparée pour les enseignants et les leaders scolaires avec de plus amples renseignements sur le registre en ligne des enseignants et leaders scolaires.

J'apprécie votre coopération pour attirer l'attention des enseignants et des leaders scolaires sur cette information importante.

Cordialement,

André Tremblay
Sous-ministre de l'Éducation

Pièce jointe :

Fiche d'information : Registre en ligne des enseignants et leaders scolaires

From: Jonathan Teghtmeyer <Jonathan.Teghtmeyer@ata.ab.ca>
Sent: June 23, 2022 9:35 AM
To: Coordinators Group <CoordinatorsGroup@ata.ab.ca>
Subject: TWINS - Application for exemption from teacher registry
Importance: High

Here is the text in the TWINS system related to applying for an exemption:

An exemption may be granted under the *Education Act*, in specific circumstances where inclusion of an applicant's name in the Teacher and Teacher Leader Online Registry:

- would be contrary to any other enactment of Alberta or Canada;
- would be contrary to an order issued by a court; or
- could cause injury or hardship to any person.

When teachers or teacher leaders apply for an exemption, they will be required to upload documentation that supports the application. On the date a request for exemption is submitted in TWINS, the teacher or teacher leader will have **15** calendar days to upload supporting documentation for the exemption request.

After **15** days, the name of the teacher or teacher leader will be added to the registry if the Registrar has not received the required documentation or there has been no communication by email to education.registrar@gov.ab.ca advising why the documentation has not been provided. The Registrar has the authority use discretion based on reasonableness when determining if additional time will be granted to applicants in providing necessary documentation; this will be determined on case by case basis.

Exemption applications must include supporting documents. These documents are uploaded through the TWINS [Teacher Self-Service](#) website.

Applicants **must** include a signed and dated letter outlining a detailed description of how the inclusion of their information in the Registry would be contrary to any other enactment of Alberta or Canada, would be contrary to any court order or could cause injury or hardship to any person. In the letter, it is important to consider the following:

- What security or safety measures are you taking to prevent personal information from being disclosed on the Internet, social media or other open-source websites?
- Is there evidence that an individual or group has previously obtained your personal information? Further details may be requested by the Registrar related to these matters.
- Are individuals or groups conducting surveillance, harassment or intimidation-type behaviour? Further details may be requested by the Registrar related to these matters.
- Provide any other information relevant to demonstrate how the inclusion in the Teacher and Teacher Leader Online Registry will cause a threat to personal safety and what the anticipated outcome may be.

You **may** wish to provide additional supporting documents, including:

- police reports and file numbers;
- Occupational Health and Safety report(s); or
- human resources report(s).

Submit any additional documentation to education.registrar@gov.ab.ca and indicate the number of documents that you are submitting.

Common reasons for declining an exemption request:

- Supporting documents are too vague to be evaluated.
 - The information provided is too generic to identify a specific threat to a person's safety. An applicant must provide reasons for seeking an exemption that are concrete, factual and not vague or speculative.
- The reasons provided are not linked to the applicant's safety.
 - The applicant states that inclusion will adversely affect them. For example, breaching their privacy or affecting their peer relationships. Non-safety-related concerns may not meet the test for an exemption.

*** I understand that, by applying for an exemption, the Office of the Registrar will consider removing my name from the Teacher and Teacher Leader Online Registry. Failure to provide documentation within 15 calendar days or failing to communicate with the Registrar within that time frame will result in my name being included in the Teacher and Teacher Leader Online Registry.**