



Commission scolaire English-Montréal
English Montreal School Board

DIRECTIVE SG 2-24

DIRECTIVE RELATING TO THE GOVERNANCE RULES OF THE ENGLISH MONTREAL SCHOOL BOARD REGARDING PERSONAL INFORMATION

Coming into force on February 6, 2024

DIRECTIVE RELATING TO THE GOVERNANCE RULES OF THE ENGLISH MONTREAL SCHOOL BOARD REGARDING PERSONAL INFORMATION

1. LEGAL FRAMEWORK

This directive is based on sections 52.2 and 63.3 of the *Act respecting Access to documents held by public bodies and the Protection of personal information* (CQLR, c. A-2.1, hereinafter “ARA”). This directive must be read in conjunction with the Directive, frameworks or other tools in effect at the English Montreal School Board, hereinafter “EMSB”, regarding the protection of personal information.

2. PURPOSE AND OBJECTIVES OF THE DIRECTIVE

The purpose of this directive is to provide the EMSB with governance rules regarding personal information to enable all persons covered by this directive to know and understand the legal requirements and protection of personal information principles applicable under the ARA.

It is also intended to inform any person likely to transmit personal information to the School Board of the rules applicable to its collection, use, release and keeping.

The directive’s objectives are as follows:

- Identify the roles and responsibilities of the individuals covered by this directive;
- State the legal requirements and principles governing the protection of personal information collected, used, released and kept in the exercise of the duties of the EMSB;
- Identify specific protective measures applicable to personal information collected or used as part of a survey;
- Establish a complaints processing mechanism regarding the protection of the personal information at the EMSB;
- Describe the training and awareness activities regarding the protection of personal information offered to EMSB personnel.

3. SCOPE

This directive applies to all EMSB personnel (schools, centres, services). It also applies to members of the Council of Commissioners, members of Governing Boards and members of the various committees of the EMSB.

It does not have the effect of limiting the Directive, other frameworks or directives adopted by the Council of Commissioners, the Directorate or the principals of schools or centres with respect to the protection of personal information.

4. DEFINITIONS

The terms used in this directive are those of the ARA and other applicable legal frameworks, unless otherwise indicated.

To facilitate understanding of this directive, the following terms mean:

Committee on Access	Committee on access to information and the protection of personal information of the EMSB composed of the person in charge of access to documents and the protection of personal information, the Director of Information Technologies, Director of Legal Services and Director of Human Resources.
Commission	Commission d'accès à l'information du Québec
Consent	<p>Agreement, acquiescence, voluntary assent of an authorized person to the collection, use or release of personal information.</p> <p>To be valid, subject to other legal requirements, consent must be manifest, free, enlightened and given for specific purposes. It must be requested in clear terms.</p> <p>It is valid only for as long as is necessary to achieve the purposes for which it is requested.</p>
Privacy Impact Assessment	A preventive assessment process that consists of considering all the factors of a project that could have positive or negative consequences on the privacy of the people concerned, in order to identify measures that will better protect their personal information and respect their privacy.
Confidentiality incident	<ol style="list-style-type: none">1. Access not authorized by law to personal information.2. Use not authorized by law of personal information.3. Release not authorized by law of personal information.4. Loss of personal information.5. Any other breach of the protection of such information.
Person	Person covered by the scope of application of this directive acting on behalf of EMSB in the exercise of its duties.

<p>Authorized person</p>	<p>Natural person concerned by the personal information collected, used or released who is capable of giving consent or, when applicable, their legal representative or the person having parental authority.</p> <p>Without limiting the generality of the foregoing, and barring exceptions, the person having parental authority consents for a minor under the age of 14.</p> <p>The minor aged 14 and over or person having parental authority consents for the minor aged 14 and over.</p>
<p>Highest authority</p>	<p>Director general</p>
<p>Personal information</p>	<p>Information concerning a natural person that directly or indirectly enables that person to be identified.</p>
<p>Anonymized personal information</p>	<p>Personal information for which it is at all times reasonable to foresee in the circumstances that it will no longer make it possible, in an irreversible manner, to directly or indirectly identify the person concerned.</p>
<p>Depersonalized personal information</p>	<p>Personal information that no longer directly identifies the person concerned.</p>
<p>Sensitive personal information</p>	<p>Personal information that, because of its medical, biometric or other intimate nature, or because of the context in which it is used or released, gives rise to a high reasonable expectation of privacy.</p>
<p>Person in Charge</p>	<p>Person designated as person in charge of access to documents and protection of personal information.</p>
<p>Applicant</p>	<p>Person submitting a request for access to documents, a request for release of personal information or a request for correction under the ARA.</p>

5. ROLES AND RESPONSIBILITIES

5.1. Highest authority

- 5.1.1. Exercise or delegate in writing the functions of Person in Charge (ref.: section 8 ARA).
- 5.1.2. If they delegate their functions as Person in Charge:
 - 5.1.2.1. See to it that such exercise of functions is facilitated for the Person in Charge (ref.: section 8 ARA);
 - 5.1.2.2. Implement measures to preserve the autonomy of the Person in Charge (ref.: section 8 ARA);
 - 5.1.2.3. As soon as possible, notify the Commission in writing of the title, contact information and starting date of the person who exercises the function of Person in Charge (ref.: section 8 ARA);
 - 5.1.2.4. Transmit all written requests for access to documents, requests for release or requests for correction to the Person in Charge with diligence (ref.: sections 43, 94 ARA).
- 5.1.3. Ensure that the Committee on Access is set up and functions properly (ref.: section 8.1 ARA).
- 5.1.4. Adopt the governance rules and any other directive or framework required to ensure compliance with the ARA, and update them as needed.

5.2. Committee on Access

- 5.2.1. Support the EMSB in the exercise of its responsibilities and the performance of its obligations under the ARA (ref.: section 8.1 ARA).
- 5.2.2. Approve the governance rules regarding personal information (ref.: section 63.3 ARA).
- 5.2.3. Be consulted at the beginning of any project to acquire, develop or overhaul an information system or the electronic service delivery system involving the collection, use, release, keeping or destruction of personal information (ref.: section 63.5 ARA).
- 5.2.4. Suggest, at any stage of a project covered by section 5.2.3, personal information protection measures applicable to the project (ref.: section 63.6 ARA).
- 5.2.5. Exercise any other function related to the protection of personal information at the request of the highest authority.

5.3. Person in Charge

- 5.3.1. Receive requests for access to documents, release or correction of personal information, ensure that they are processed in accordance with the provisions of the ARA, including the transmission of any notice required by the ARA, and render a decision within the time limits prescribed (ref.: sections 45 to 52, 97 to 102 ARA).

- 5.3.2. Assist the applicant when their request is not sufficiently precise, or when they so request, in identifying the document likely to contain the information sought (ref.: sections 42 and 95 ARA).
- 5.3.3. Assist the applicant, on request, in understanding the transmitted decision (ref.: sections 50 and 100 ARA).
- 5.3.4. Ensure that any document for which a request for access, communication or rectification has been made is kept for the time required to allow the applicant to exhaust the recourses provided for in the ARA (ref: sections 52.1 and 102.1 ARA).
- 5.3.5. Analyze and take a position on the application of an exception provided for in the ARA regarding the collection, use, communication or retention of personal information.
- 5.3.6. Handle privacy complaints in accordance with this Directive.
- 5.3.7. Provide support and advice on all matters relating to access to documents or the protection of personal information.
- 5.3.8. Perform any other function provided for in the ARA or at the request of the highest authority.

5.4. Administration of schools, centres and services

- 5.4.1. Ensure compliance with this Directive by Persons under their responsibility.
- 5.4.2. Implement in their school, centre or department measures for the protection of personal information that are reasonable in light of the sensitivity of the information, the purpose for which it is to be used, its quantity, distribution and medium, and ensure that it is disseminated and applied by the Persons under their responsibility.
- 5.4.3. Communicate, as required, with the Person in Charge for any question relating to requests for access to documents or the protection of personal information in their school, centre or department.

5.5. Persons

- 5.5.1. Comply with this directive, in particular the legal requirements and principles concerning the protection of personal information set out in this Directive.
- 5.5.2. Collaborate, upon request, with the Person in Charge when processing a request for access to documents, communication or rectification of personal information or any other request of a similar nature under the ARA.
- 5.5.3. Collaborate, upon request, with the Person in Charge when handling a complaint covered by this Directive.

- 5.5.4. Contact their supervisor, as required, regarding this Directive for clarification, advice or to inform them of a problem in the application of this Directive or of a specific case involving the protection of personal information.

6. LEGAL REQUIREMENTS AND NEED TO KNOW PRINCIPLES CONCERNING THE PROTECTION OF PERSONAL INFORMATION

6.1. Collection

- 6.1.1. A Person shall only collect personal information that is necessary for the performance of the duties of the EMSB or for the implementation of a program under its management (ref: section 64 ARA).
- 6.1.2. Any collection carried out for another purpose will be permitted in the cases provided for by law and must be authorized in advance by the Person in Charge.
- 6.1.3. Anyone who provides personal information in the course of collection under the ARA consents to its use and disclosure for the purposes disclosed at the time of collection (ref.: section 65.0.2 ARA).
- 6.1.4. Personal information concerning a minor under the age of 14 may not be collected from them without the consent of the person having parental authority or the tutor, except when the collection is clearly for the benefit of the minor (ref.: section 64.1 ARA).

6.2. Use

- 6.2.1. An Individual may use personal information for the purposes for which it was collected (ref. section 65.1 ARA).
- 6.2.2. Use for other purposes will be permitted with the consent of the authorized person (ref. section 65.1 ARA).
- 6.2.3. When sensitive personal information is involved, consent must be obtained expressly (ref.: section 65.1 ARA).
- 6.2.4. Use for another purpose may be permitted, without the consent of the authorized person, in situations provided for in the Act (ref.: section 65.1 ARA).
- 6.2.5. A Person has access, without the consent of the authorized person, to personal information when they are entitled to receive it and it is necessary for the performance of their duties (ref.: section 62 ARA).

6.3. Release

- 6.3.1. A Person shall not release personal information without the consent of the authorized person (ref.: section 59 ARA).
- 6.3.2. When sensitive personal information is involved, consent must be obtained expressly (ref.: section 59 ARA).

- 6.3.3. A Person may release personal information without the consent of the person concerned in the cases provided for by law (Ref.: section 59 ARA), taking into account, where applicable, any internal framework measures that may exist at the EMSB.
- 6.3.4. The release of personal information without the consent of the authorized person in the cases provided for by law must be authorized in advance by the Person in Charge.

6.4. Keeping and destruction

- 6.4.1. A Person must know and apply the security measures determined by the EMSB for each personal information to which they have access (ref.: section 63.1 ARA).
- 6.4.2. Failing this, a Person shall take such security measures as are appropriate to ensure the protection of personal information to which they have access, and as are reasonable in light of the sensitivity of the information, the purpose for which it is to be used, its quantity, distribution and medium (ref.: section 63.1 ARA).
- 6.4.3. A Person who has knowledge of a confidentiality incident must apply the *Directive Respecting Roles and Responsibilities in the Event of a Confidentiality Incident* of the EMSB.
- 6.4.4. When a Person becomes aware or has reasonable cause to believe that the personal information kept by them is no longer up to date, accurate and complete for serving the purposes for which it was collected or used, they shall promptly notify their school, centre or service management so that appropriate action can be taken (ref.: section 72 ARA).
- 6.4.5. A Person shall be aware of and apply the keeping calendar (time period and manner prescribed) of the EMSB or any other similar measure implemented in their school, centre or service with respect to personal information to which they have access (ref.: section 73 ARA).
- 6.4.6. Failing this, a Person must take measures to securely destroy any personal information they keep once the purposes for which it was collected or used have been accomplished. Such measures must be reasonable in light particularly of the sensitivity, quantity and medium of the personal information concerned (ref.: section 73 ARA).
- 6.4.7. The use of anonymized personal information is permitted for purposes of public interest, when the purposes for which it was collected or used have been accomplished and with the authorization of the Person in Charge (ref.: section 73 ARA).

6.5. Particular projects

- 6.5.1. A Person responsible for a project covered by sections 63.5, 64, 65.5, 67.2.1, 68 and 70.1 of the ARA must ensure that a Privacy Impact Assessment is carried out

under the coordination of the Person in Charge and that all the conditions set out in the ARA with respect to this project are met.

- 6.5.2. A Person responsible for a project covered by sections 64, 67.2, 67.2.1, 68 and 70.1 of the ARA must ensure that a written agreement or contract has been concluded under the direction of the Person in Charge and is in force before proceeding with any collection, use or release of personal information.

7. SPECIAL PROTECTIVE MEASURES FOR SURVEYS

7.1. Surveys covered

- 7.1.1. Only a survey involving the use or collection of personal information is covered by this directive.
- 7.1.2. Where applicable, all types of survey (e.g., opinion, satisfaction, service quality measurement, market research) are covered, whatever their form (e.g., individual or group interview, questionnaire survey, automated survey).

7.2. Necessity

- 7.2.1. A Person must, before beginning a survey, assess the necessity of conducting the survey as part of the mission of the EMSB.
- 7.2.2. In doing so, a Person must:
 - 7.2.2.1. Establish the purpose and objectives of the survey;
 - 7.2.2.2. Verify the possibility of conducting the survey without using or collecting personal information;
 - 7.2.2.3. Conduct an assessment of the ethical aspect of the survey, taking into account, in particular, the nature of the survey, the persons concerned, the sensitivity of the personal information collected and the purpose for which it is to be used, with the support of a person with knowledge of ethics, if necessary.

7.3. Protective measures

- 7.3.1. A Person must also, before beginning a survey:
 - 7.3.1.1. Identify the personal information to be used and obtain the necessary authorizations;
 - 7.3.1.2. Ensure that the quantity of personal information used or collected is limited and avoid the collection of sensitive personal information;
 - 7.3.1.3. Determine who will have access to the personal information used or collected in the course of the survey, the security measures that will be applied to ensure its protection, the length of time it will be kept and destroyed, all in accordance with legal requirements and the principles set out in this directive;
 - 7.3.1.4. If necessary, carry out a Privacy Impact Assessment.

7.4. Approval and consultation

7.4.1. Before conducting the survey, a Person must obtain the approval of the management of the school, centre or service concerned.

7.4.2. The Person in Charge or the Committee on Access may be consulted.

8. TRAINING AND AWARENESS ACTIVITIES

8.1. Training and awareness activities

8.1.1. The school, centre or service management, in collaboration with the Person in Charge, ensures that the Persons under their responsibility are made aware of the requirements and principles surrounding the protection of personal information (roles and responsibilities, security measures, etc.).

8.1.2. Awareness activities are carried out in a variety of ways: training, discussion sessions, e-mail information capsules, etc.

8.1.3. If necessary, the Person in Charge may identify training or awareness activities that need to be implemented for a category of people, a school, a centre or a service, on one or more subjects that they determine.

9. COMPLAINTS PROCESSING

9.1. Filing a complaint and contents

9.1.1. A person may file a complaint with the Person in Charge regarding the non-compliance of the EMSB with its obligations regarding the protection of personal information.

9.1.2. Such complaint should be preferably sent by e-mail to the following address:

nlauziere@emsb.qc.ca

9.1.3. The complaint must include a description of the event leading to the complaint, including the period concerned, the personal information involved, and the nature of the remedy sought.

9.1.4. If the complaint involves the conduct of the Person in Charge, it will be addressed and handled by the director general in accordance with section 9.2.

9.2. Processing a complaint

9.2.1. The Person in Charge acknowledges receipt of the complaint within a reasonable time of receipt.

- 9.2.2. The Person in Charge may summarily reject any complaint that is frivolous, vexatious or made in bad faith. They must then inform the person who lodged the complaint.
- 9.2.3. The Person in Charge may refuse to process a complaint if the event has been the subject of legal proceedings, including any application before the Commission.
- 9.2.4. The Person in Charge analyses the complaint with diligence and transmits their conclusion to the person who lodged the complaint within 30 days of receiving it.
- 9.2.5. Where applicable, the Person in Charge ensures that the appropriate corrective action is taken.

10. DISTRIBUTION

- 10.1. The Person in Charge shall ensure that this directive is distributed to the various administrative units.

11. ENTRY INTO FORCE

This directive must be approved by the Committee on Access.

This directive comes into force on February 6, 2024.

