
Guidelines for Drafting Information-Sharing Agreements

INTRODUCTION

As part of a PMP, public bodies must develop processes for putting Information-Sharing Agreements (ISAs) into place. An ISA is an agreement that is entered into between a public body and another organization (including government organizations) and it applies to the sharing of personal information between them.

There are numerous programs and initiatives between the government and other public and private sector organizations that may require ongoing or routine sharing of personal information. An ISA is one of the ways that the parties can confirm common understandings and agreements about how information may be used, when it can be further disclosed and how it will be protected.

The purpose of this document is to highlight important information that should be included when developing an ISA.

An “Information-Sharing Agreement” is defined in section 69 as follows:

FIPPA, section 69

"Information-Sharing Agreement" means an agreement between a public body and one or more of the following:

- (a) another public body;*
- (b) a government institution subject to the Privacy Act (Canada);*
- (c) an organization subject to the Personal Information Protection Act or the Personal Information Protection and Electronic Documents Act (Canada);*
- (d) a public body, government institution or institution as defined in applicable provincial legislation having the same effect as this Act;*
- (e) a person or a group of persons;*
- (f) a prescribed entity*

that sets conditions on the collection, use or disclosure of personal information by the parties to the agreement.

ISA FORMAT

While there is no specific required form or format, an ISA should be written and clear as to:

- Who the parties are;
- What specific information will be shared and a description of the information-sharing;
- The purposes for which the information can be used;

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- The rights of the recipient to use and disclose the personal information, and any limitations or conditions on those rights;
 - Whether the disclosing party has continuing rights over the information;
 - The legal authorities under FIPPA or other applicable privacy laws permitting the collection, use and disclosure of personal information between the parties;
 - The security standards that apply to the protection of the personal information;
 - A description of how privacy breach incidents will be reported and/or managed between the parties;
 - The date the Information-Sharing Agreement becomes effective and expires;
 - How the agreement can be terminated, and what happens to the personal information after the agreement ends.

An ISA may also contain more detailed information:

- A statement regarding the party's obligations to ensure the information shared is accurate and complete;
- A statement about how compliance with the agreement will be monitored, reviewed, audited, and/or updated;
- Requirements regarding the disposal of personal information that is shared;
- References to dispute resolution mechanisms in place.

It is recommended practice for public bodies to maintain a list of the Information-Sharing Agreements that they have in place at any given time.

ISAs should be put into place any time the district is sharing personal information on a routine basis, or where the **information is sensitive in nature** and the relationship does not involve a service provider contract.

To clarify, in general, when the relationship is between a district and a service provider, a contract will be used to stipulate terms and conditions for the protection of personal information. When the relationship is between a district and a third-party organization that is not a service provider, an ISA is used to stipulate the requirements for the protection of personal information.

For example, ISAs are appropriate to use when the district is asked to provide information to academic researchers, when information is shared with law enforcement or health authorities on an ongoing basis, and where student information may need to be shared with unions or others.

DRAFTING TIPS FOR ISAS

- Draft the agreement so that a stranger to the ISA would be able to understand who the parties are, what information is being shared, and the purposes or conditions that apply to the information-sharing.
- An ISA can be drafted in any form so long as it is clear and written. It can be in the form of a Memorandum of Understanding, a Memorandum of Agreement, Terms of Use, or it may be in the form of a letter agreement that is drafted by the school district and countersigned by the other public body

- For **highly sensitive personal information** or arrangements that involve sharing significant amounts of information, the ISA should include more detail to ensure the party's respective commitments for the use and protection of information are clear.
- School districts should establish a review and approval process for ISAs. Ideally, they should require the review and approval of the Privacy Officer or Head.

RESOURCES

The OIPC guidance document **Information-Sharing Agreements** provides additional information on this topic.

The **Information-Sharing Code of Practice** is issued under section 69(9) of FIPPA and provides recommendations respecting how personal information is to be collected, used, and disclosed.