

PURPOSE

This document outlines some legal considerations regarding video conferencing and includes sample contract wording that can be used when preparing video conferencing agreements between parties.

General Considerations

From time to time, school boards/authorities and individual schools may engage in video conferencing for a variety of purposes; these may include:

- Board staff video conferencing between board facilities
- Board staff video conferencing with external advisors or other service providers
- Teachers and students conferencing with their counterparts at other board schools
- Teachers and students conferencing with their counterparts at schools outside of the board
- Teachers and students conferencing with external service and/or content providers

The use of video conferencing may involve the collection of personal information about the participants and may therefore be subject to regulation under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

MFIPPA regulates the collection, use, disclosure, security, and retention of personal information. Personal information is defined in part under the Act to mean information about an identifiable individual. It has been found to include information collected about individuals in the form of photographs and video images.

MFIPPA permits the collection of personal information such as video images where it is necessary for the proper administration of a lawfully authorized activity. Video conferencing that is necessary for conducting school business or is an important part of the delivery of an educational program will normally meet this criterion.

MFIPPA also requires that individuals whose images will be collected as part of a video conference be given proper notice of the collection under s.29 of the Act. This includes providing: (a) notice of legal authority, (b) a description of the purpose(s) of the collection, and (c) the title, business address, and business phone number of a board/authority representative who can answer questions about the collection (this will normally be the individual responsible for initiating the video conference).

A sample notice is set out below. The content of such notice will depend on the purpose of the collection and how it will be used/disclosed:

Please be advised that your image will be captured [optional: “and recorded”] during the proceeding video conference. This information is collected under s. _____ of the Education Act for the purposes of providing educational programming [optional: “and it may be used in the classroom for the purposes of assisting in instruction”]. Questions about the collection may be addressed to [title] at [business address] or [business telephone number].

Notice may be provided at or before the time of the collection.



Restrictions on Use or Disclosure

MFIPPA requires that personal information should normally only be used for purposes identified in the collection notice, unless individuals have provided consent for the information to be used for other purposes, or unless one of the other exemptions under MFIPPA applies. Should you have questions about the appropriate use of a video conference recording, please contact the board's/authority's information and privacy coordinator.

Security

MFIPPA requires that personal information be secured in a reasonable manner to prevent its loss or unauthorized use or disclosure. Normally such recording should be stored in a locked container (desk, cabinet, etc.) by the person responsible for its maintenance.

From time to time, the school board/authority may retain external companies to provide video conferencing services or rely upon the external conferencing party to collect and record such data. Steps should be taken to apprise third parties of the board's/authority's obligations under MFIPPA and to secure agreement from such companies or external conferencing parties to handle any collected personal information in accordance with the requirements of the Act. A draft agreement is attached at the end of this policy as Appendix "A."

In addition, it is possible that external conferencing parties may wish to record conferences for their own purposes. In order to best protect the privacy of the participants (students, teachers, staff), the board/authority should obtain clear agreement with the conferencing party regarding the issue of recording (i.e., whether recording will be permitted and how any such recordings will be used). A second draft agreement is attached at the end of this policy as Appendix "B."

Retention

MFIPPA requires that personal information such as video conference recordings be retained for a minimum of one year from their use, unless one of the limited exemptions which permit shorter retention periods applies. If the personal information is not recorded during the video conference, this requirement is not applicable.

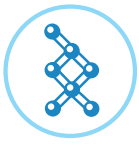
Access

Video conference recordings are subject to the access provisions of MFIPPA. Any formal access requests made for such recordings should be forwarded to the board's/authority's privacy coordinator for consultation and response.

Summary

While of tremendous benefit, video conferencing for students and staff can introduce a level of risk to privacy under the provisions of MFIPPA. Please refer to the "Guidelines for Videoconferencing" for additional information.

DRAFT



APPENDIX A

Agreement for Third Parties Providing Video Conferencing Services to the Board

The _____ board (the “board”) wishes to retain _____ for the purposes of providing video conferencing services [or]

The _____ board (the “board”) wishes to rely upon _____ for the purposes of providing video conferencing services

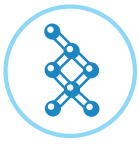
The purpose(s) of the video conferencing is/are as follows (check applicable purposes):

- To facilitate instruction within the classroom.
- To facilitate instruction between the classroom and other groups (e.g., classes in other schools).
- To facilitate meetings between board staff.
- To facilitate external communications between board staff and external parties.
- To record the above noted conference(s).
- Other [describe]: _____

As you are aware, the board is subject to the Municipal Freedom of Information and Protection of Privacy Act.

In order to ensure the board’s obligations under the Act are met, we ask that you confirm your agreement to comply with the following requirements, to which the board is subject, when handling personal information (as defined by the Act) pursuant to a retainer from one or more of the board’s schools:

- (i) _____ will collect only personal information necessary to administer the services retained by the school.
- (ii) _____ will only use or disclose personal information for purposes consistent with the stated purposes for its collection or as otherwise permitted by law and authorized by the board.
- (iii) _____ will take all reasonable measures to prevent unauthorized access, loss or theft of personal information. _____ will notify the board immediately of any such event.
- (iv) Upon request of the board, _____ will return or destroy any personal information in any form it maintains as necessary to provide the stated services.
- (v) _____ will notify the board of any access request or request for correction made for personal information collected by _____ on behalf of the board.



Please confirm your agreement to comply with these requirements by returning a signed copy of this letter.

I, _____ on behalf of _____
acknowledge the legal requirements imposed on the board and agree on behalf of _____
that the company will comply with the requirements identified above when handling personal information on behalf
of the board. I understand that failure to do so may result in a discontinuance by the board of the company's services.

DRAFT



APPENDIX B General Agreement for External Conferencing Parties

The _____ board (the “board”)
and _____ (“external party”) wish to conduct a video conference
(check applicable purpose(s))

- To facilitate instruction within the classroom.
- To facilitate external communications between board staff and external parties.
- Other [describe]: _____

In order to ensure the board’s protects the privacy interests of the conference participants, the conferencing parties agree
(check applicable option):

- That neither party shall record the video conference.
- That only the board shall record the video conference.
- That only the external party shall record the video conference, subject to restrictions in this agreement set out below.
- That both parties shall record the video conference subject to restrictions set out below.

Restrictions on Recording:

Where either party has authorization from the other to record the video conference as set out above, use and disclosure of the record will be restricted as follows:

- Recordings will only used within the classroom for instructional purposes by each party.
- No copies of recordings will be permitted without express written consent of the other party.
- Images or other information from recordings will not be published or disseminated in any matter, including electronically or in print, without express written consent of the other party.
- Recording will be maintained in a secure manner so as to prevent theft or unauthorized access, use, or disclosure.
- Upon request by the other party, any recording will be destroyed.
- Each party will notify the other of any unauthorized access, theft, use, or disclosure.

As a condition of participating in the video conference, the parties agree to comply with the terms set out in this agreement,

Dated this _____ day of _____, 20____

For the board

For the external party