*Amended October 27, 2026, to remove "Interim"

OFFICE OF THE
INFORMATION and PRIVACY COMMISSIONER
for Prince Edward Island

~~Interim~~* Decision No.	**D-26-014**
OIPC File No.	**C/26/00103**
Public Body	**Public Schools Branch (PSB)**
Statute	***Freedom of Information and Protection of Privacy Act*, Section 64.1**
Decision Maker	**Maria MacDonald, Deputy Commissioner**
Date of Decision	**October 26, 2026**

Summary

The Deputy Commissioner found that the PSB was authorized to post photos of the Complainant's child on social media because the Complainant had consented. Further, there is insufficient evidence of any systemic problem with how the PSB administers parents' consents, or refusals to consent, to the PSB disclosing student's images.

Background

[1] Many schools of the Public Schools Branch (the PSB) have a website and a social media page. A school discloses a student's personal information if they post a student's image online. However, the *FOIPP Act* does not prohibit all disclosures of a student's personal information. For example, section 37(1)(c) of the *FOIPP Act* authorizes a public body to disclose personal information with the person's consent. Section 71(1)(d) says the guardian of a minor may exercise any right or power of the minor person. This includes consenting on a student's behalf.

[2] The PSB asks parents or guardians of minor students to complete a Student Media Release Consent Form (consent form). Parents or guardians may give, or refuse to give, their consent for the PSB to display or publish a student's work including the student's image outside of the school, for example on a school's social media site.

[3] Although they did not recall doing this, a student's parent (the Complainant) consented to the PSB disclosing their younger child's images on social media in January of 2024.

[4] About a year and a half later, in June of 2025, the PSB posted images of one of their children on the school's social media site. The Complainant emailed the PSB stating they had not consented to the PSB disclosing their children's images online and asked the PSB to remove photos from the previous week. The Complainant included copies of two photos. The Complainant stated, in part:

> **First,** we kindly ask that our children not be photographed and have their images shared on the school's social media platforms. While we genuinely appreciate the school's efforts to highlight student experiences and celebrate classroom moments, we have personal safety reasons for keeping our children's images off public platforms. We have already completed and submitted the necessary forms, in Feb 2024, indicating that we **do not consent** to their images being used on social media.
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> We would be very grateful if staff could be reminded of our preference and ensure [older child] and [younger child] are not included in any publicly shared photos or videos. That said, if photos or videos are taken during school activities, we would welcome receiving them privately by email. We ask the photos of [younger child] over the past week be taken off the schools social media.
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> [bolded emphasis in original]

[5] Within six hours, the PSB confirmed to the Complainant that they had taken down the photos, and they notified the staff not to post any photos of the Complainant's two children on their Facebook sites.

[6] In September of 2025, the Complainant completed the consent forms again. The Complainant consented to the PSB posting images of their older child and refused to consent to the PSB posting images of their younger child.

[7] The Complainant's concerns relate to:

a. The PSB posting photos of the Complainant's younger child on social media, and
b. Management of the consent or refusal to consent.

[8] Commissioner Denise N. Doiron delegated this file to me.

Limitation period

[9] Under the *FOIPP Act*, the limitation period to make a complaint is 60 days, but our office can extend this period. One part of the complaint relates to photos the PSB posted in 2024 and 2025, and the Complainant's withdrawal of consent in 2025 more than ten

months before the complaint. The complaint about the photos on social media are outside of the limitation period to request a review. However, I am extending the limitation period to deal with the merits of the complaint.

a) Posting photos on social media

[10] Occasionally, the Complainant refers to their children, but we have no evidence that the PSB posted any photos of the Complainant's older child. My focus will be on the Complainant's younger child.

[11] With the Complainant's consent, the *FOIPP Act* authorized PSB to post the student's images on social media. The Complainant asked the PSB to remove photos that were posted in one week of June of 2025. The PSB honoured this request and removed the photos.

[12] During this review, in October of 2026, the Complainant identified other photos the PSB had posted in 2024. According to the records available to us, these photos were posted with the Complainant's consent. Within two hours of our office sending these photos to the PSB, the PSB took them down. The PSB invited the Complainant to let them know if there were other photos of concern. I advised the Complainant that they could contact the PSB directly.

[13] I advised the Complainant that they had consented to these disclosures, their response was, in part:

> Again, Maria, we are asking your office to investigate, make an independent finding, and explain what action will follow. Forwarding photographs to PSB for removal does not resolve why our children's photographs remained public after we expressly requested their removal and were told it had been done. We consider this a breach of our children's privacy. **We are asking OIPC to exercise its oversight role and hold PSB accountable. If your office concludes there was no breach, please explain that conclusion in writing and address the evidence we provided**"
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> [bolded emphasis in original].

[14] Respectfully, the Complainant seems to have honest but mistaken recollections that are not supported by the records available to us. The Complainant thought that they did not consent to the PSB posting their younger child's images on social media, but they had. The Complainant thought they had expressly requested the PSB to remove all photos, but the Complainant only asked the PSB to remove photos from one week in June of 2025.

[15] I confirm that with the Complainant's consent, the *FOIPP Act* authorized the PSB to post images of the Complainant's child on social media.

[16] The Complainant may believe that their email in June of 2025, and their refusal to consent on the consent form in September of 2025, had an unspoken retroactive effect. I do not agree that the Complainant's email of June 2025, or their refusal to consent in September 2025, applied retroactively. The refusal to consent did not require the PSB to identify and remove earlier photos of the Complainant's younger child.

[17] The PSB has demonstrated they are willing to remove photos of the Complainant's children. If there are other photos the Complainant wants the PSB to remove, I recommend the Complainant give the PSB sufficient detail for the PSB to identify the photo(s) of the Complainant's child(ren) the Complainant wants the PSB to remove.

b) Managing consent forms

[18] In June of 2025, after the PSB removed the photos as requested, the PSB notified staff not to post photos of either of the Complainant's children. Among records responsive to one of the Complainant's access-to-information requests was a copy of a staff member's response to this notice. The staff member wrote, "At the beginning of the year we were told that there were no restrictions on any student's photos being taken".

[19] The Complainant thought any message that there were "no restrictions" was incorrect because they thought they had refused to consent. The Complainant wrote to us that they were concerned with both the initial posting of the photos, and "whether appropriate consent controls, communication processes, and safeguards were in place and followed".

[20] I considered whether there was evidence of a systemic issue.

[21] We have the following evidence about how the PSB manages consents, and refusals to consent:

a. The PSB proactively addresses the issue of photos and other student works being posted online through the Student Media Release Consent forms. The consent form explains the terminology the PSB uses, potentially relevant considerations for a parent/guardian, and gives parents/guardians the option to consent, partially consent, or refuse to consent to a student's work including their image being disclosed externally.

b. The Operational policies[1] address responsible use of social media, and retention of the consent forms. The policy is for the PSB to retain the most recent consent forms in a student's permanent record.
c. The consent forms for the Complainant's younger child were not filed in the student's permanent record pursuant to the policy.
d. The school administrators email staff about any restrictions on posting photos of students[2].
e. In June of 2025, within hours of the Complainant's requests for the PSB to remove photos of their younger child, the PSB removed the photos without question or delay. The PSB advised staff that the Complainant did not consent to images of their two children being posted.
f. In October of 2026, within hours of the Complainant's requests for the PSB to remove other identified photos of their child, the PSB removed the photos and invited the Complainant to advise if there were other photos of concern.

[22] Although the consent forms relating to the Complainant's younger child were not included in the student's permanent record pursuant to the PSB policy, we have no evidence to contradict the staff message that there were no restrictions on any student's photos being taken. Compared to the other evidence of how the PSB manages consent, the failure to file the consent forms related to the Complainant's younger child is not significant enough to suggest there is a systemic problem with the PSB management of the consent forms.

Conclusion

[23] I confirm that the *FOIPP Act* authorized the PSB to post photos of the Complainant's younger child on social media with the Complainant's consent.

[24] There is insufficient evidence of any systemic problem with how the PSB administers consent and refusal to consent.

Maria MacDonald

Maria MacDonald
Deputy Commissioner

[1] PSB Operational Guideline 105.1 – Social Media and Digital Messaging Guideline, Effective May 17, 2024, and PSB Operational guideline 103.1 - Student Record Guidelines and Supplementary Appendices, effective November 15, 2016,

[2] Pages 311 and 782 of 1040, of the Complainant's access request 2025-24; and a reference to such an email on page 21 of 315 (pdf numbering) of the Complainant's access request 2026-03.