

COURT FILE NUMBER QBG-SA-00766-2022

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

PLAINTIFFS CAITLIN ERICKSON, JENNIFER SOUCY (BEAUDRY)
and STEFANIE HUTCHINSON and COY NOLIN

DEFENDANTS KEITH JOHNSON, JOHN OLUBOBOKUN, KEN SCHULTZ, NATHAN RYSAVY, DUFF FRIESEN, LYNETTE WEILER, JOEL HALL, ~~FRAN THEVENOT~~, LOU BRUNELLE, JAMES RANDALL, ~~TRACEY JOHNSON~~, SIMBO OLUBOBOKUN, ELAINE SCHULTZ, CATHERINE RANDALL, KEVIN MACMILLAN, ANNE MACMILLAN, DAWN BEAUDRY, NATHAN SCHULTZ, AARON BENNEWEIS, DEIDRE BENNEWEIS, STEPHANIE ~~CASE~~, DARCY SCHUSTER, RANDY DONAUER, JOHN THURINGER, MILE TWO CHURCH INC., THE GOVERNMENT OF SASKATCHEWAN, JOHN DOES and JANE DOES

AFFIDAVIT OF CAITLIN ERICKSON

I, Caitlin Erickson, of the Town of Leask, in the Province of Saskatchewan, MAKE OATH AND SAY:

1. I am a Plaintiff in this action and have personal knowledge of the facts attested to herein, except where stated to be on information and belief, and where so stated I verily believe the same to be true.
2. I am advised by my solicitor, Samuel W. Edmondson, and believe to be true, that:
 - (a) A freedom of information request was made to the Ministry of Education (the "**FOI Request**") and sent by courier on August 11, 2022. A true copy of the said request and cover letter are attached hereto as **Exhibit "A"**.
 - (b) A request for review was made to the Information and Privacy Commissioner, which concluded with the Information and Privacy

Commissioner rendering Review Report 247-2022, indexed on CanLII as *(Saskatchewan Education) (Re)*, 2023 CanLII 26218.

- (c) Between October 14, 2022 and March 25, 2024 the Ministry of Education delivered, by electronic means, 31 batches of records, along with cover letters, in relation to the FOI Request. The records produced by the Ministry include redaction, purporting to be on grounds pursuant to *The Freedom of Information and Protection of Privacy Act*.
- (d) The Ministry advised, by letter dated March 28, 2024, that it had concluded its production of records in response to the FOI Request. A true copy of the said letter is attached hereto as **Exhibit “B”**.
- (e) A request for review was made, with respect to whether the Ministry had appropriately applied various section of *The Freedom of Information and Protection of Privacy Act* (the “**Substantive Review**”). A true copy of the Substantive Review is attached hereto as **Exhibit “C”**. Accompanying the Substantive Review, a letter detailing the basis for the review was sent to the Information and Privacy Commissioner on April 11, 2024, a true copy of which, excluding the enclosures and USB key referenced therein, is attached hereto as **Exhibit “D”**. The referenced enclosures and redacted productions are approximately 1.38GB of files, consisting of in excess of 9,000 pages of productions and correspondence, and have been omitted from this Affidavit but can be filed if requested by the Court.
- (f) Many of the redactions by the Minister in its production of records in response to the FOI Request are the name or e-mail address of personnel of Mile Two Church Inc., or its predecessor, and the name and other details of individuals for whom the Ministry granted a license or certificate to teach at Legacy Christian Academy, or its predecessor. It is these redactions which form the basis for the Substantive Review.

3. I attended a meeting with Minister Dustin Duncan and Deputy Minister Donna Johnson on September 21, 2022. In the course of that meeting, the Minister committed to prioritizing responding to the FOI Request and confirmed that the Ministry would not charge fees for responding to the FOI Request.

SWORN BEFORE ME at Saskatoon, in the)
Province of Saskatchewan, this 25th day of)
April, 2024.)



) Caitlin Erickson

Commissioner for Oaths for Saskatchewan
My Commission expires:
OR Being a Solicitor

This document was prepared by:

Name of firm:	Scharfstein LLP
Name of lawyer in charge of file:	Grant J. Scharfstein, K.C. / Samuel W. Edmondson
Address of legal firm:	200 Princeton Tower 123-2 nd Avenue South Saskatoon, SK S7K 7E6
Telephone number:	(306) 653-2838
Fax number:	(306) 652-4747
E-mail address:	gscharfstein@scharfsteinlaw.com / sedmondson@scharfsteinlaw.com
File number:	21,835.1

THIS IS EXHIBIT "A" TO THE AFFIDAVIT OF CAITLIN ERICKSON, SWORN BEFORE ME AT THE CITY OF SASKATOON IN THE PROVINCE OF SASKATCHEWAN THIS 25th DAY OF APRIL, 2024.

A handwritten signature in blue ink, appearing to read 'C. Lib', is written above a horizontal line.

Commissioner for Oaths for Saskatchewan
BEING A SOLICITOR



Scharfstein LLP
Barristers & Solicitors

Reply to: Samuel W. Edmondson
E-mail: sedmondson@scharfsteinlaw.com

Assistant: Chelsey Kuspira
E-mail: ckuspira@scharfsteinlaw.com

August 11, 2022

Via Courier

Honourable Dustin Duncan, Minister of Education
Ministry of Education
Room 361, 2405 Legislative Drive
Regina, SK, S4S 0B3

Dear Sir:

Re: Freedom of Information Request
Qualified Independent School operated by Mile Two Church Inc.
Our File No: 21,835.1

Please find enclosed our Access to Information Request Form, dated August 11, 2022. This request is directed to you as the Minister responsible for the administration of *The Education Act, 1995*, c E-0.2 and related regulations.

In the event that the search for, or production of, records is anticipated to incur a fee in excess of \$100.00, kindly provide a fee estimate before incurring search fees.

Should you have any questions or concerns about the scope of the information request, please contact me to discuss.

Yours truly,

SCHARFSTEIN LLP

PER:

SAMUEL W. EDMONDSON

SWE/cmck
Enclosure

Grant J. Scharfstein, Q.C.

Dennis J. Fisher, Q.C.

Brent D. Barilla, Q.C.

Tammi D. Hackl

Brendan S. Tumback

K. Lily Arvanitis

Anna C. Singer

Samuel W. Edmondson

Gregory G. Walen, Q.C.
(of counsel)

Leslie G. Tallis

Valerie G. Watson, Q.C.

Michael R. Scharfstein

Gabriela Fuentealba

Jane M. Basinski

Bonnie D. Cherewyk

Lauren E. Scharfstein

Courtney J. Fisher

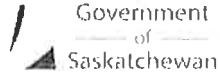
James D. Hataley

Christine K. Libner
(maternity leave)

Valerie J. Warwick

Michelle E. Zabos

Part II
Form A
[Section 5]



Freedom of Information

Access to Information Request Form

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY
Form A
[Section 5]

Personal information and personal health information on this form is collected under *The Freedom of Information and Protection of Privacy Act* and *The Health Information Protection Act* and will be used or disclosed only as necessary to respond to your request.

INFORMATION ABOUT YOU

Last Name

First Name

Edmondson

Samuel

Name of Company or Organization (if applicable - optional)

Scharfstein LLP

Address

City

Province

Postal Code

200 - 123 2nd Ave S

Saskatoon

SK

S7K 7E6

Day Phone Number

Alternate Number

Fax Number

Email

(306) 665-2838

sedmondson@scharfsteinlaw.com

INFORMATION ABOUT THE RECORDS YOU ARE REQUESTING

Are you requesting:

your own personal information.

personal information about someone other than yourself (*attach proof that you have authority to receive the information requested*).

general information.

To which government institution are you making your request? Enter the name of the government institution that you believe has the records you are requesting.

Ministry of Education

What records do you wish to access? Please provide a detailed description of the records you wish to access. This information will help locate the records.

All records relating to the school operated by Mile Two Church Inc., formerly Saskatoon Christian Centre Inc., (Legacy Christian Academy, formerly Christian Centre Academy) including but not limited to records relating to licensing; funding; registration and approval as an independent school; teachers at the school(s) operated by Mile Two Church Inc., or its predecessors, accredited or for whom a waiver has been provided; and all complaints or reports made in relation to the school, the associated church, and their respective staff.

Digital copies, delivered by electronic mail or USB key, are preferred.

What is the time period for the records you are requesting (if applicable)?

1982 to present

FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY

F-22.01 REG 1

The person managing your request may contact you to seek clarification or to discuss aspects of the request, including the application of fees if necessary. Should fees be necessary, you may request a fee waiver but you may be required to provide evidence of substantial financial hardship among other factors (see section 9 of the regulations).

Please keep a copy of this request for your records.

Check if requesting waiver of processing fee:

I request that payment of the processing fee related to this request be waived because payment will cause me substantial financial hardship. Details are as follows: *(Use reverse of form if additional space is required.)*



Signature of Applicant

FOR OFFICE USE ONLY

Date Received

Application Number

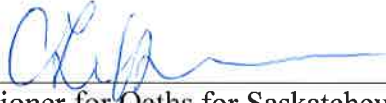
30-Day Response Date

Print

Save

Reset Form

THIS IS EXHIBIT "B" TO THE AFFIDAVIT OF CAITLIN ERICKSON, SWORN BEFORE ME AT THE CITY OF SASKATOON IN THE PROVINCE OF SASKATCHEWAN THIS 25th DAY OF APRIL, 2024.

A handwritten signature in blue ink, appearing to be 'C. Erickson', written over a horizontal line.

Commissioner for Oaths for Saskatchewan
BEING A SOLICITOR

March 28, 2024

Samuel Edmondson
sedmondson@scharfsteinlaw.com

Dear Samuel Edmondson:

RE: Your Access to Information Request Number ED10-22G

Thank you for your access to information request received on August 16, 2022, requesting access to:

“All records relating to the school operated by Mile Two Church Inc., formerly Saskatoon Christian Centre Inc., (Legacy Christian Academy, formerly Christian Centre Academy) including but not limited to records relating to licensing; funding; registration and approval as an independent school; teachers at the school(s) operated by Mile Two Church Inc., or its predecessors, accredited or for whom a waiver has been provided; and all complaints or reports made in relation to the school, the associated church, and their respective staff [between 1982 and August 15, 2022].”

On March 25, 2024, the Ministry of Education [Ministry] released the final package of records related to your request. In total, 9,027 pages have been released to you, in full or in part. This number is considerably less than the Ministry’s original page estimate for your request. As such, I write to provide some context for the difference.

In general terms, it was difficult to provide an accurate page estimate for your request due to the size of this file, the number of records, and the original format of records that pre-date 2000. More particularly, the pre-2000 records were originally in paper format and required scanning to prepare them for review and redaction.

In lay terms, scanning paper files creates an electronic image of the document, which is saved in Portable Document Format or .pdf. The conversion of paper documents to .pdf can create very large electronic file sizes, which is what happened here.

Page count estimates for access to information requests are generally based on the electronic file size(s) of the assembled records before the records are reviewed and actual page counts can be accurately tabulated. Where, as here, significant numbers of paper documents are converted into large .pdf files, the estimated page count can unintentionally be inflated as a result.

In addition, numerous spreadsheets are included in the responsive records for your request. Spreadsheets typically contain embedded calculations and formulas that cause their electronic file sizes to become quite large. When those documents are converted to .pdf, their size in megabytes is often significant. This also caused the number of estimated pages for your request to be unintentionally inflated.

I can also advise that when the Ministry processed the last package of scanned documents for your request, we realized that there were no documents that pre-date 1989. My staff conducted a secondary review of documents in storage, and no additional records were located. Therefore, I can advise that the Ministry has no records from 1982 to 1988.

It is my understanding (although I am certainly no expert) that private schools were not registered with the then Department of Education until 1989. This may help explain why the Ministry does not have any records from 1982 to 1988.

The Ministry understands that previous communications indicated far more records than have been released in response to your request. As noted, these communications were based on initial and erroneous page estimates. We apologize for the confusion.

I can advise that your request is now closed. If you would like to exercise your right to request a review of the Ministry's decision on your request, you may do so by completing a "Request for Review" form and forwarding it to the Saskatchewan Information and Privacy Commissioner within one year of this notice.

Your completed form can be sent to

#503 – 1801 Hamilton Street
Regina, Saskatchewan, S4P 4B4

Samuel Edmondson

Page 3

March 28, 2024

This form is available at the same location which you applied for access or by contacting the Office of the Information and Privacy Commissioner at 306-787-8350.

If you have any questions, please contact Regmina Rozia at ed.foi@gov.sk.ca.

Yours truly,

Campbell, Digitally signed
Dawn ED by Campbell,
Dawn ED

Dawn Campbell
Privacy Officer

cc: Regmina Rozia, Legislation and Privacy Coordinator, Corporate Services, Education
Jared Biden, Senior Crown Counsel, Ministry of Justice
Justin Stevenson, Crown Counsel, Ministry of Justice

THIS IS EXHIBIT "C" TO THE AFFIDAVIT OF CAITLIN ERICKSON, SWORN BEFORE ME AT THE CITY OF SASKATOON IN THE PROVINCE OF SASKATCHEWAN THIS 25th DAY OF APRIL, 2024.

A handwritten signature in blue ink, appearing to be 'A. L. B.', written over a horizontal line.

Commissioner for Oaths for Saskatchewan
BEING A SOLICITOR

Request for Review Form B

INFORMATION ABOUT YOU

Last Name		First Name	
Edmondson		Samuel	
Name of Company or Organization <i>(if applicable - optional)</i>			
Scharfstein LLP			
Address		City	Province
200 - 123 2nd Avenue South		Saskatoon	SK
Postal Code		S7K 7E5	
Day Phone Number	Alternate Number	Fax Number	Email
(306) 653-0283		(306) 652-4747	sedmondson@scharfsteinlaw.com

INFORMATION ABOUT THE RECORDS YOU REQUESTED

Did you request:

- your personal information.
- personal information about someone other than yourself *(attach proof that you have authority to receive the information requested)*
- general information

To which government institution did you make your request?

Ministry of Education

What records did you wish to access? *Please provide a detailed description of the records you wished to access.*

See: 1. 2022-08-11 Form A - Access to Information Request.pdf on the concurrently delivered USB key.
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REASON FOR REQUEST

- I have been refused access to all or part of the record.
- I have been notified that the record does not exist/cannot be found.
- I have been notified that the existence of the record shall neither be confirmed nor denied.
- I have not received a reply to my application, which I submitted days ago.
- I disagree with the need to extend the 30-day response period.
- My correction to a personal information record was not accepted as correct/verifiable.
- I am a third party, and I wish to request a review of a decision to give access to a record that affects my interests.
- I disagree with my request being transferred.
- I disagree with the manner of providing access.
- I disagree with the fees estimated.
- I disagree with the decision not to grant my fee waiver.
- I disagree with the collection of my personal information.
- I disagree with the use of my personal information.
- I disagree with the disclosure of my personal information.

FOR OFFICE USE ONLY

Date Received	Application Number - OIPC Number

Submit by Email

Please forward a copy of your original Access to Information request as well as a copy of the response you received from the public body along with the completed Request for Review

THIS IS EXHIBIT "D" TO THE AFFIDAVIT OF CAITLIN ERICKSON, SWORN BEFORE ME AT THE CITY OF SASKATOON IN THE PROVINCE OF SASKATCHEWAN THIS 25th DAY OF APRIL, 2024.

A handwritten signature in blue ink, appearing to be 'C. L. B.', written over a horizontal line.

Commissioner for Oaths for Saskatchewan
BEING A SOLICITOR



Scharfstein LLP
Barristers & Solicitors

Reply to: Samuel W. Edmondson
E-mail: sedmondson@scharfsteinlaw.com

Assistant: Chelsey Kuspira
E-mail: ckuspira@scharfsteinlaw.com

April 11, 2024

Via Regular Mail

Saskatchewan Information and Privacy Commissioner
503 – 1801 Hamilton Street
Regina, SK S4P 4B4

Attention: To Whom it May Concern

Re: Request for Review
Ministry of Education File: ED10-22G
Related OIPC File: 247-2022
Our File No: 21,835.1

Please find enclosed my Form B Request for Review of the response of the Ministry of Education (the “**Ministry**”) to my freedom of information request, which was sent by letter dated August 11, 2022 (the “**FIPPA Request**”).

In relation to the FIPPA Request, a prior Request for Review had been made by electronic mail on December 12, 2022 in relation to the timing of the response by the Ministry to the *FIPPA Request*. That review resulted in Review Report 247-2022. To be clear, the enclosed Request for Review is **not** with respect to the timing of the response to the *FIPPA Request* by the Ministry which was subject to review by the Office of the Information and Privacy Commissioner, which had been addressed in Review Report 247-2022.

The Ministry disclosed a number of records in the course of responding to the *FIPPA Request*, with the final tranche received March 25, 2024. The Ministry delivered its final section 7 response by letter dated March 28, 2024.

The records disclosed by the Ministry contain numerous redactions, primarily asserting that the redacted information is personal information. The redactions plainly include significant:

Grant J. Scharfstein, K.C.
Dennis J. Fisher, K.C.
Brent D. Barilla, K.C.
Tammi D. Hackl
Brendan S. Tumback
K. Lily Arvanitis
Anna C. Singer
Samuel W. Edmondson
Leslie G. Tallis
Valerie G. Watson, K.C.
Michael R. Scharfstein
Jane M. Basinski
Benjamin C. Rakochy
Bonnie D. Cherewyk
(maternity leave)
Lauren E. Scharfstein
Courtney J. Fisher
(maternity leave)
Daniel Katzman
James D. Hataley
Christine K. Libner
Valerie J. Warwick
Samuel C. Rezazadeh
(Student-at-Law)
Jessica D. MacLean
(Student-at-Law)

1. business card information, as that term has consistently been applied in Review Reports of the Information and Privacy Commissioner; and
2. license, permit or other similar discretionary benefit granted information within the meaning of *The Freedom of Information and Protection of Privacy Act*, SS 1990-91 c F-22.01 (the “Act”).

While these examples are specifically identified, these are not the only instances of redactions improperly applied by the Ministry.

I appreciate the Ministry seeking out a convenient method of delivering records by file download through the Government of Saskatchewan Electronic File Transfer Service. In view of the volume of records, this was practical, reasonable, and responsible. I note, however, that in scanning dated records the Ministry has not utilized optical character recognition (OCR) to scan documents into a format that is readily electronically searchable. Use of OCR to scan paper records advances the objectives and purposes of the *Act*. OCR in document scanning equipment is readily available computer hardware and software, would not unreasonably interfere with operation of the Ministry, and is practicable.

Also enclosed with this letter is a USB key containing a number of documents necessary to conduct a review. Those records include:

1. Form A - Access to Information Request;
2. Letter from Edmonson to Duncan, dated August 11, 2022;
3. A directory for each of the batches disclosed by the Ministry, along with the letter accompanying the disclosure, as provided by the Ministry;
4. Letter from Scharfstein to Cockrill, dated September 13, 2023;
5. Letter from Biden to Scharfstein, dated September 22, 2023;
6. E-mail from Edmondson to Freedom of Information Requests ED, dated March 22, 2024; and
7. Letter from Campbell to Edmondson, dated March 28, 2024.

It is my understanding that there is no batch 27, and that the numbering was as a result of an internal process. If, however, there is a batch 27 in the possession of the Ministry, it has not been delivered.

Should you have any questions, or if you require further information, please contact me.

Yours truly,

SCHARFSTEIN LLP

PER:



SAMUEL W. EDMONDSON

SWE/cmk

Enclosures

cc: **Ministry of Education**
400 – 2220 College Avenue
Regina, SK S4P 3V9
Attention: Dawn Campbell, Director, Legislative Services and Privacy, Corporate Services

cc: **Civil Law Branch**
Ministry of Justice and Attorney General
900 – 1874 Scarth Street
Regina, SK S4P 4B3
Attention: Jared G. Biden and Justin Stevenson