



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-104

Appeal M-9200218

Windsor Board of Education



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

BACKGROUND:

The Windsor Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records relating to a student attending a school within the Board's jurisdiction. The requester is the student's natural father, and the student was under the age of sixteen at the time the request was made. The Board identified a number of responsive records, and denied access pursuant to section 14(1) of the Act. The requester appealed the Board's decision.

During the course of mediation, the scope of the appeal was narrowed by the parties to one record, a hard copy of a "registration maintenance screen" for the student. This record is a computer printout which identifies the individuals the Board should contact in an emergency. It lists the name of the student, the address and telephone number of the student's mother and her mother's spouse, and certain additional information concerning the student's living and guardianship arrangements. The student, her mother and her mother's spouse all refused to consent to the release of the record.

Further mediation was not possible, and notice that an inquiry was being conducted to review the Board's decision was sent to the Board, the appellant, the student, her mother and her mother's spouse. Written representations were received from all parties except the Board.

PRELIMINARY ISSUE:

Section 54(c) of the Act addresses the rights of certain individuals as they relate to children under the age of sixteen, as follows:

Any right or power conferred on an individual by this Act may be exercised,

if the individual is less than sixteen years of age, by a person who has lawful custody of the individual.

During the course of this appeal, the appellant submitted a copy of a divorce decree which makes it clear that he does not have "lawful custody" of the student, and therefore, section 54(c) does not apply in the circumstances of this appeal.

ISSUES/DISCUSSION:

The issues arising in this appeal are as follows:

- A. Whether the information contained in the record qualifies as "personal information" as defined in section 2(1) of the Act.

- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 14(1) of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the information contained in the record qualifies as "personal information" as defined in section 2(1) of the Act.

Section 2(1) of the Act reads, in part, as follows:

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- ...
- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

Having reviewed the record, I find that it contains the address and telephone numbers of the student's mother and her mother's spouse, and certain information concerning the student's living and guardianship arrangements. In my view, this information qualifies as the personal information of the student, her mother

and her mother's spouse, but not the appellant.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14(1) of the Act applies.

Section 14(1) of the Act prohibits disclosure of personal information except in certain circumstances. One such circumstance is contained in section 14(1)(f) of the Act, which states:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy.

Section 14(3) lists the types of information, the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. None of the parties have raised any of the presumptions contained in section 14(3), and I find that this section is not relevant in the circumstances of this appeal.

Section 14(2) lists factors which may be considered in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. None of the parties refer specifically to any of these factors; however, because the list is not exhaustive, I will consider other factors raised by the various parties.

The student, her mother and her mother's spouse jointly submit that the divorce decree granted custody to the student's mother, and to release personal information about the student to anyone else would represent an unjustified invasion of the student's personal privacy.

The appellant submits:

[the student] is a minor and as her natural father I am entitled to information concerning her well being.

...

My 'Decree Absolute', a copy of which you have on file, grants me the 'right' to make reasonable inquiries and to 'receive' information as to health, education etc., insofar as my children are concerned, regardless of their age/custody.

...

The only way I can ascertain whether the information is accurate is to obtain a copy of the forms for review.

The appellant makes no reference in his representations to the parts of the record which contain the personal information of the student's mother and her mother's spouse.

Having carefully reviewed the record and all representations, in my view, the reasons submitted by the appellant in favour of disclosure are not sufficient to overcome the mandatory exemption provided by section 14(1) of the Act.

Section 14(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information. In order for me to find that the section 14(1)(f) exception applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy. In my view, the appellant has failed to provide evidence sufficient to raise this exception, either with respect to the personal information of the student, or her mother and her mother's spouse.

It is relevant to note that the student signed the joint submission with her mother and her mother's spouse, indicating her objection to the release of the record.

Therefore, I find that disclosure of the record would constitute an unjustified invasion of the personal privacy of the student, her mother and her mother's spouse, and that the record qualifies for exemption under section 14(1) of the Act.

ORDER:

I uphold the Board's decision not to disclose the record.

Original signed by:
Assistant Commissioner
Tom Mitchinson

March 24, 1993