



Information and Privacy
Commissioner/Ontario

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

ORDER M-107

Appeal M-9200146

Norfolk Board of Education

ORDER

BACKGROUND:

The Norfolk Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of the "summary of disbursements" for the Board's March 3, 1992 meeting. The Board responded by providing the appellant with a record containing a summary of disbursements for the meeting, but denied access to an accompanying "accounts list", which consists of a list of cheques issued by the Board for the two-week period covered by the "summary of disbursements". The requester appealed the Board's decision to deny access to this accounts list.

During the course of mediation, the Board identified sections (6)(1)(b), 11(c) and (d) and 14(1) of the Act as the grounds for denying access.

Mediation was not successful, and notice that an inquiry was being conducted to review the Board's decision was sent to the Board and the appellant. Written representations were received from both parties.

At the inquiry stage of the appeal, the Board withdrew its exemption claims under sections 6(1)(b) and 11(c) and (d) of the Act. The only exemption claim which remains at issue in this appeal is section 14(1), and it is restricted to the names of individuals which appear in the record.

The individuals whose names appear in the record (the affected persons) were notified of the inquiry and provided with an opportunity to make representations in one of two ways. First, in co-operation with the Board, this office arranged to have a Notice of Inquiry placed in the pay envelopes of all affected persons who are employees of the Board (a copy of this notice is attached as Appendix A to this order). Second, the remaining affected persons who are not Board employees were sent an individual Notice of Inquiry by this office.

Eighteen affected persons responded to the Notice of Inquiry, only one of whom objected to the release of his name.

PRELIMINARY MATTER:

In her representations, the appellant challenges the authority of the decision-maker. Specifically, she submits that the decision-maker did not hold the proper delegated authority pursuant to section 49(1) of the Act.

The Board provided a copy of the delegation of authority to this office. I have reviewed this delegation and I am satisfied that it is valid and proper.

ISSUES:

The sole remaining issue in this appeal is whether the mandatory exemption provided by section 14(1) of the

Act applies to the names of the affected persons which appear in the record.

In order to qualify for exemption under section 14(1), the information must first satisfy the requirements of the definition of personal information contained in section 2(1) of the Act.

Section 2(1) states, in part:

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

The portions of the record which remain at issue in this appeal are the names of the affected persons who received cheques from the Board and appear on the "accounts list". Most of these individuals are Board employees and co-op students, and the cheques represent reimbursement for expenses incurred by these individuals in their employment capacity. The remaining names on the list are those of individuals who provided services to the Board on a fee-for-service basis, and the cheques represent payments made to these individuals during the period covered by the "accounts list".

It has been established in a number of previous orders that information provided by an individual in a professional capacity or in the execution of employment responsibilities is not "personal information" (Orders M-71, M-74, P-326, P-328, P-329, P-329, P-333 and P-377). In my view, similar considerations apply in this appeal, and I find that information about payments made to reimburse individuals for expenses incurred during the course of carrying out their duties as public employees or co-op students does not qualify as the personal information of these individuals for the purposes of the Act. Similarly, I find that information about payments made to individuals who have provided services to the Board on a fee-for-service basis does not qualify as the personal information of these individuals for the purposes of the Act.

Because I have found that the records do not contain any personal information, it is not necessary for me to consider the possible application of section 14(1) of the Act.

ORDER:

1. I order the Board to disclose the record in its entirety to the appellant within 35 days following the date of this order and **not** earlier than the thirtieth (30th) day following the date of this order.
2. In order to verify compliance with the provisions of this order, I order the Board to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, only upon my request.

Original signed by: _____ March 25, 1993
Tom Mitchinson
Assistant Commissioner

APPENDIX A

NOTICE

UNDER THE MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

The Office of the Information and Privacy Commissioner/Ontario has received three appeals concerning refusals by the Norfolk Board of Education to release a copy of the Board's accounts summaries for the time period February 3 to 28, 1992.

The accounts summary is a record that lists cheques issued by the Board to cover expenses, including reimbursement of employees for travel and related expenses.

You are being notified of these appeals because your name appears in the Board's accounts summaries at issue in these appeals.

The Information and Privacy Commissioner is presently considering whether or not the Norfolk Board of Education should be ordered to release the requested information, pursuant to the Municipal Freedom of Information and Protection of Privacy Act.

Therefore, you are invited to contact the Office of the Information and Privacy Commissioner to obtain further details about the appeals and your right to make representations to the Commissioner.

These inquiries may be made in writing or by phone to:

The Office of the Information and Privacy Commissioner/Ontario
[IPC Order M-107/March 25,1993]

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

Telephone (416) 326-3932
Toll Free 1-800-387-0083

Your call or letter should be received by the Office no later than Monday, March 3, 1993 and should be directed to Gerald Fahey, Appeals Officer. Please refer to appeal #M-9200140.