



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER M-319

Appeal M-9300498

Durham Region Roman Catholic Separate School Board



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ORDER

BACKGROUND:

The Durham Region Roman Catholic Separate School Board (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for copies of a named employee's credentials, the individual's degrees (particularly in the fields of psychology or psychiatry) and the individual's job description.

The Board granted access to the job description but refused to disclose the records that were responsive to the first two parts of the request. This decision was made on the basis of the exemption contained in section 14 of the Act (invasion of another individual's privacy). The requester appealed the Board's decision to the Commissioner's office.

The mediation of this appeal was not successful and notice that an inquiry was being conducted to review the Board's decision was sent to the requester (now the appellant) and the Board. Representations were received from both parties.

The responsive records in this appeal consist of the resume of the employee along with a covering letter which was attached to the resume.

DISCUSSION:

There are two issues to be determined in this appeal. These are whether the records contain "personal information" as defined in section 2(1) of the Act and, if so, whether the mandatory exemption provided by section 14 of the Act applies to the personal information contained in the records.

Under section 2(1) of the Act, personal information is defined, in part, to mean recorded information about an identifiable individual, including information relating to the education or employment history of the individual. I have reviewed the records at issue in this appeal and find that they contain information about the named employee's education and employment history for the purposes of the Act. These records do not contain any personal information regarding the appellant.

Section 14(1) of the Act is a mandatory exemption which prohibits the disclosure of personal information to any person other than the individual to whom the information relates. There are a number of exceptions to this rule, one of which is found in section 14(1)(f) of the Act. This section provides that a government institution must refuse to release the personal information of other individuals except if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

In its representations, the Board relies upon the presumption contained in section 14(3)(d) of the Act as the basis for refusing to disclose the records. This section states that a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information relates to employment or educational history. I have carefully reviewed the records at issue and am satisfied that the personal information contained in these documents falls within the section 14(3)(d) presumption.

The only way in which a section 14(3) presumption may be overcome is if the personal information in question falls within section 14(4) of the Act or where a finding is made under section 16 of the Act that there exists a compelling public interest in the disclosure of the record in which the personal information is contained, which clearly outweighs the purpose of the section 14 exemption (Order M-170).

In his representations, the appellant takes the position that the personal information which he seeks falls within the scope of section 14(4)(a) of the Act. This section provides that a disclosure of personal information does not constitute an unjustified invasion of personal privacy if the information discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution.

In the present appeal, the appellant is seeking access to the credentials and degrees of a particular Board employee, rather than the classification, salary range or benefits paid to this individual. I would also note that the Board has already disclosed to the appellant the employee's job description which describes the individual's employment responsibilities. On this basis, I find that the exception provided by section 14(4) of the Act does not apply to the personal information found in the two records.

In his representations, the appellant further submits that there is a compelling public interest in the disclosure of the records pursuant to section 16 of the Act. In order for this provision to apply in the context of this appeal, two requirements must be met. First, there must be a compelling public interest in the disclosure of the resume and covering letter. Second, this compelling interest must clearly outweigh the purpose of the section 14 exemption. In undertaking this analysis, I am mindful of the fact that section 14 is a mandatory exemption whose fundamental purpose is to ensure that the personal privacy of individuals is maintained except where infringements on this interest can be justified.

In his representations, the appellant submits that the employee acted unprofessionally in counselling a student with respect to a particular incident. The appellant further asserts that the employee lacked the necessary qualifications to provide the advice in question and that this fact must be made known to the public.

I have no doubt that the appellant has filed his access request in good faith and that he feels very strongly about the matters which he has communicated to the Commissioner's office. The evidence which the appellant has submitted, however, has not been substantiated by an external source nor has he provided any supporting documentation to verify the accuracy of his representations. On this basis, and because I would characterize the appellant's interest in seeking this information as predominantly personal in nature, I am not prepared to say that there exists a compelling public interest in the disclosure of the records. Nor can I conclude that such a public interest clearly outweighs the purpose of the privacy protection provisions of the Act. I find, therefore, that section 16 of the Act does not apply in the circumstances of this appeal.

The result is that the disclosure of the personal information contained in the two records would constitute an unjustified invasion of the personal privacy of the employee and that the records are properly exempt from disclosure under section 14 of the Act.

ORDER:

I uphold the Board's decision.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

_____ May 18, 1994