



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

ORDER P-718

Appeal P_9400003

Ontario Science Centre



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested copies of certain bi-monthly attendance reports (the reports) of five named employees of the Ontario Science Centre (the Centre).

The Centre relies on the following exemption to deny access to the reports:

- invasion of privacy - section 21(1)

A Notice of Inquiry was provided to the Centre and the appellant.

Representations were received from both parties.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual.

The bi-monthly reports record the name of the employee, the number of hours worked, and the number of vacation and other types of leave, including sick days, taken by the employee during the two-week period. I find that this satisfies the definition of "personal information" and relates to individuals other than the appellant.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances.

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions found in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the institution must consider the application of the factors listed in section 21(2) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

The appellant submits that in certain departments within the Centre, attendance records are kept in an open file where anyone can look at them. He further states that at no time were employees ever informed that such attendance records were considered confidential.

Having reviewed the evidence before me, I have made the following findings:

- (1) The appellant has provided no submissions on what factors, either listed in section 21(2) or otherwise, would weigh in favour of disclosing the personal information. The appellant's comments on the Centre's record-keeping practices and whether or not employees are advised that their attendance reports are confidential are not relevant considerations.
- (2) The representations I have been provided with weigh in favour of privacy protection such that disclosure of the personal information contained in the records would result in an unjustified invasion of the personal privacy of the five named employees.
- (3) Accordingly, the exemption in section 21(1) applies to all the personal information contained in the reports.

ORDER:

I uphold the decision of the Centre.

Original signed by: _____
Anita Fineberg
Inquiry Officer

July 6, 1994