



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

ORDER P-733

Appeals P_9300420 and P_9300421

Ministry of Consumer and Commercial Relations



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NATURE OF THE APPEALS:

These are appeals under the Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested copies of records from the Ministry of Consumer and Commercial Relations (the Ministry) relating to job competitions CR64/92 and CR05/93 in which the appellant was an unsuccessful candidate.

The appellant received access to all of the materials involving himself as well as general information about the competition. The records at issue in these appeals consist of the answers given and scores received by the other candidates to the questions posed in both the pre-screening and second interviews for the positions. The interviews for both competitions were conducted at the same time.

The Ministry relies on the following exemption to withhold this information:

- invasion of privacy - section 21(1)

During the mediation of these appeals, the appellant indicated that he was not interested in receiving access to the names of the candidates or other personal identifiers contained in the records.

A Notice of Inquiry was provided to the parties to the appeals, including the 15 other candidates who were interviewed for the competitions. All parties were advised of the manner in which the appellant had narrowed the scope of his appeals as described above.

Representations were received from the Ministry, the appellant and eight of the other candidates. Three of the candidates consented to the disclosure of their responses contained in the records. However, given that the scope of the appeals has been narrowed to exclude personal information, I will consider these records in the same manner as the others. The remaining five candidates who responded to the notice objected to any disclosure.

DISCUSSION:

PERSONAL INFORMATION

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

- the education or employment history of the individual
- the personal opinions or views of the individual
- the views or opinions of another individual about the individual
- the individual's name where it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual.

As previously indicated, the appellant has stated that he is not seeking access to any personal information of the other candidates (such as names and identifiers) contained in the records. The

Ministry's position is that all of the information in the records constitutes the personal information of the candidates. The Ministry has expressed concerns that, because the number of candidates was relatively small and many of the individuals work together, the removal of the names and identifiers is not sufficient to "anonymize" the balance of the information contained in the records. As a preliminary matter, therefore, I must determine which portions of the records contain the personal information of the other candidates, and therefore fall outside the scope of these appeals.

There were 16 candidates, including the appellant, who were granted a pre-screening interview for both competitions. Nine of the candidates received a second interview. Three individuals sat on the interview panel for both series of interviews.

The records include the name of the interviewer at the top of the page, the name of the candidate, the questions (only on the pre-screening sheets) and the scores given to the candidates for their responses. Two of the interviewers actually recorded the candidates' responses while the third asked the questions and scored, but did not record, the responses.

I have carefully reviewed all the records. I find that, in addition to the names of the candidates at the top of each sheet, many of the responses contained in the records could serve to identify the candidates and therefore constitutes their personal information as defined above.

With respect to the sheets completed by the panel member who did not record the candidates' responses, I find that once the name of the candidate is removed from the top of the page, the balance of the information cannot be said to be about an **identifiable** individual. Therefore, these sheets with merely the name of the interviewer, the questions (on the pre-screening sheets only) and the candidate's score do not contain the personal information of the candidate and should be disclosed to the appellant.

I have carefully reviewed the balance of the records. As I have indicated, one of the Ministry's submissions is that the removal of the personal identifiers would not be sufficient to protect the identity of the candidates. While I accept this argument for certain of the candidates' responses, I do not accept it for others. In the latter cases, once the "personal identifiers" have been removed, the remaining information loses its character as personal information as the responses cannot be related to an identifiable individual, i.e. any one candidate.

In reaching this conclusion, I have been mindful of the fact that some of the information may be said to relate to an identifiable individual because some of the candidates work or have worked together with the appellant. I have also taken into account the relatively small number of candidates, especially with respect to the records related to the second interviews.

I have highlighted those portions of the records which constitute the personal information of the candidates and which, therefore, fall outside the scope of these appeals. These portions of the records should not be disclosed to the appellant.

In my view, the remaining portions of the records do not contain personal information. Because the invasion of privacy exemption only applies to exempt **personal information** from disclosure, it follows that this section is not applicable to this category of information. That is, the disclosure of portions of the records which do not themselves constitute personal information

would not constitute an unjustified invasion of privacy. Since the Ministry has not claimed that any other exemptions apply to this information, it should be disclosed to the appellant in accordance with the highlighted copy of the records provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with a copy of this order.

ORDER:

1. I order the Ministry to disclose the records to the appellant, **except** the portions of the records that are highlighted on the copy of the records that is being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order. The highlighted portions should **not** be disclosed.
2. I order the Ministry to disclose the portions of the records described in Provision 1 within thirty-five (35) days following the date of this order, but not earlier than the thirtieth (30th) day after the date of this order.
3. In order to verify compliance with this order, I reserve the right to require the Ministry to provide me with a copy of the records disclosed to the appellant pursuant to Provision 1.

July 28, 1994

Anita Fineberg
Inquiry Officer

POSTSCRIPT:

The Ministry claims that no useful purpose would be served by partial disclosure in this case, as the resultant material would not be meaningful. In my view, the key question of severance raised by section 10(2) of the Act is one of reasonableness. I agree with the Ministry that, in the general case, it is not reasonable to require a head of an institution to sever information from a record if the end result is simply a matter of disconnected words or phrases with no coherent meaning or value. A valid section 10(2) severance must provide a requester with information that is responsive to the request, while at the same time protecting the confidentiality of the portions of the record covered by the exemption (Order 24).

However, in this case, the appellant has narrowed the scope of the appeals to exclude "personal information". Moreover, he has clearly indicated that he wishes to receive access to any information, however limited, which remains after the removal of the candidates' names and other personal identifiers. In these unique circumstances, I am of the view that the records have to be carefully reviewed, as I have done, to determine which portions do contain personal information which lies outside the scope of the appeals.