



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

ORDER P-722

Appeal P_9400194

Ministry of Culture, Tourism and Recreation



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/Téléc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Culture, Tourism and Recreation (the Ministry) received a request for access to the scores awarded to four candidates by each of three interviewers in a job competition in which the appellant was an unsuccessful candidate.

The Ministry denied access to the individual scores awarded to the other three candidates and their names, relying on the following exemption:

- invasion of privacy - section 21(1).

During the mediation of the appeal, the appellant indicated that she was not interested in obtaining the names of the other candidates, only their scores.

A Notice of Inquiry was provided to the parties to the appeal. Representations were received from the appellant, the Ministry and two of the three other candidates. One candidate consented to the release of his/her scores. Consequently, I order the Ministry to disclose to the appellant a copy of the scores awarded to the candidate who has consented to the release of this information.

The record at issue, therefore, consists of the scores awarded to the two remaining candidates.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, as "recorded information about an **identifiable** individual". [emphasis added]

It has been established in a number of previous orders that, even where personal identifiers are removed from a record, if there is a reasonable expectation that an individual can be identified from the remaining information, such information qualifies under section 2(1) as personal information.

In her representations, the appellant submits that the hiring decision was based on a consideration of three components, one of which was the interview scores. The appellant submits further that, because the candidates were not informed of the weighting given to each of the three components, it would not be possible to ascertain to which candidate the scores belong.

The Ministry submits that the appellant knows the identity of the other candidates and that the successful candidate, the appellant and one of the unsuccessful candidates are still employed with the Ministry. The Ministry submits that the appellant knows her own

scores and, therefore, would be able to infer which scores belong to the successful candidate, leaving only two sets of scores and two candidates remaining unattributed.

I have examined the record at issue and considered all of the circumstances of this appeal. In my view, it is reasonable to expect that other candidates may be identified by the disclosure of information contained in the record, particularly to individuals who are familiar with this competition. Accordingly, I am of the view that the scores contained in the record satisfy the definition of "personal information" under section 2(1) of the Act as this information pertains to "identifiable individuals".

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. One such exception is outlined in section 21(1)(f) of the Act as follows:

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.

In order to establish that section 21(1)(f) applies, it must be shown that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy. Sections 21(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions against disclosure contained in section 21(3) applies to the personal information found in a record, the only way such a presumption 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.

In its representations, the Ministry submits that the scores of the other candidates consist of personal evaluations (section 21(3)(g)) and that the disclosure of the scores would, therefore, result in a presumed unjustified invasion of personal privacy.

I agree that the information contained in the record consists of "personal evaluations" and satisfies the requirements of the presumption contained in section 21(3)(g) of the Act. Further, I find that none of the considerations described in section 21(4) apply. The appellant has not raised the application of section 23 to the personal information contained in the record.

Accordingly, I find that disclosure of the interview scores of the other candidates would constitute an unjustified invasion of their personal privacy and that the mandatory exemption provided by section 21 of the Act applies to exempt this information from disclosure.

ORDER:

1. I order the Ministry to disclose to the appellant the scores awarded to the candidate who has consented to the release of this information in accordance with the highlighted version of the record which I have provided to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order. The highlighted portions of the record should **not** be disclosed.
2. I uphold the Ministry's decision not to disclose to the appellant the scores of the remaining two candidates.
3. In order to verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Donald Hale
Inquiry Officer

July 12, 1994