



Information and Privacy
Commissioner/Ontario

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

ORDER P-784

Appeal P-9400088

Ministry of Community and Social Services



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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 requester asked the Ministry of Community and Social Services (the Ministry) for a copy of the materials contained in her grievance file as it existed in July 1991 and for certain documentation which confirmed that she had successfully completed a number of courses.

The Ministry identified a total of 115 pages of records that were responsive to the request. The Ministry then released 57 of these pages to the requester. The Ministry decided, however, not to disclose 29 of the remaining pages on the basis that the requester already had these documents in her possession. Finally, the Ministry withheld access to the final 29 pages based on the law enforcement exemption found in section 14(1)(b) of the Act. The requester appealed the latter decision to the Commissioner's office.

During the mediation stage of the appeal, the Ministry withdrew its reliance on section 14(1)(b) and instead took the position that the records are exempt from disclosure under section 18(1)(f) of the Act (plans relating to the management of personnel or the administration of an institution).

A Notice of Inquiry was sent to the appellant and the Ministry. Representations were received from both parties.

In its representations, the Ministry argued for the first time that sections 21 and 49(b) of the Act (invasion of privacy) applied to exempt part of Page 106 of the records from disclosure. Since the appellant has indicated that she is not interested in receiving any information relating to other individuals, it is not necessary for me to consider the application of these exemptions. I have simply highlighted the parts of Page 106 which contains the personal information and order that these portions not be released to the appellant.

The information which remains at issue in this appeal is found on Pages 78, 79, 82-89, 95-102 and 105-115 of the records. These documents consist of handwritten notes, a series of memoranda exchanged between Ministry officials and a report of a second stage grievance meeting.

DISCUSSION:

PLANS RELATING TO THE MANAGEMENT OF PERSONNEL OR THE ADMINISTRATION OF AN INSTITUTION

The Ministry claims that the exemption found in section 18(1)(f) of the Act applies to each of the 29 pages at issue. In order for this provision to apply to a record, the Ministry must establish that:

1. the record contains a plan or plans, **and**
2. the plan or plans relate to:

[IPC Order P-xxx/October xx, 1994]

- (i) the management of personnel or
 - (ii) the administration of an institution, **and**
3. the plan or plans have not yet been put into operation or made public.

I will deal initially with the first part of the test (the records must contain a plan or plans). Previous orders issued by the Commissioner's office have defined the word "plan" as "a formulated and especially detailed method by which a thing is to be done; a design or scheme". I adopt this definition for the purposes of this order.

In its representations, the Ministry indicates that the records at issue were originally compiled to address a grievance which the appellant filed in 1991. That grievance involved the classification standards for the position which the appellant then occupied. This grievance was resolved via a memorandum of settlement which was generally favourable to the appellant.

The Ministry next states that, subsequent to the settlement of the grievance, the classification criteria for the appellant's position have again changed. According to the Ministry, the appellant has now filed a second grievance which deals with the same issue.

The Ministry indicates that the records at issue in this appeal are currently being used to develop a strategy to defend its position at the upcoming grievance hearing. On this basis, the Ministry submits that these records contain plans which pertain to the management of personnel as well as the administration of the institution. The Ministry believes that, should these documents be released prematurely, the outcome of the hearing will be inappropriately affected.

I have carefully reviewed these representations in conjunction with the documents at issue. I find that the 29 pages of records, even when viewed collectively, cannot be equated to "a formulated and especially detailed method by which a thing is to be done" and, hence, a plan for the purposes of section 18(1)(f) of the Act. Rather, the records simply outline the Ministry's approach for dealing with one particular grievance. On this basis, the Ministry has not satisfied the first component of the section 18(1)(f) test with the result that this exemption does not apply to the records at issue.

ORDER:

1. I order the Ministry to disclose to the appellant Pages 78, 79, 82-89, 95-102 and 105-115 of the records in their entirety and the non-highlighted portions of the copy of Page 106 which I have provided to the Ministry's Freedom of Information and Privacy Co-ordinator along with a copy of this order within fifteen (15) days of the date of this order.

2. I uphold the Ministry's decision not to disclose the highlighted portions of Page 106 of the records.
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 records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

_____ October 19, 1994