



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-360

Appeal M-9400154

Halton Board of Education



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appellant submitted the following request to the Halton Board of Education (the Board):

... to examine the originals, and receive copies of ... [a]ll documentation and reports which reflect the figures in the charts [entitled Participants by Funding Source] issued in the publication "Education is Ageless" ...

The Board granted access to some records responsive to the request and issued an interim decision and fee estimate in the amount of \$5,790 relating to access to the remaining records. The appellant objects to the Board's fee estimate on the basis that the information she seeks can be found on a spreadsheet, or is available on an electronic database, either of which could be made readily accessible.

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

PRELIMINARY MATTER:

The appellant indicates that the information she seeks must be readily accessible on a spreadsheet or through the electronic database. Otherwise, she submits, the chart to which she refers could not have been created. In her letter of appeal she writes: "I am requesting electronic access to the spreadsheet that was used to input the values for the chart."

The Board indicates in its representations that the appellant was not contacted following receipt of her request because, in its view, the request was clear.

The appellant's position suggests that the Board has misunderstood or misinterpreted her request. In my view, the request, although broadly worded, is clear and provides sufficient description of the records she sought to enable an experienced employee of the Board to correctly identify the responsive records. The Board's search for responsive records was properly determined by the parameters set out in the wording of the request.

Had the appellant wished to obtain the specific information she identified in her letter of appeal, her request could have been as clearly worded.

DISCUSSION:

FEE ESTIMATE

Section 45(1) of the Act provides as follows:

If no provision is made for a charge or fee under any other Act, a head shall require the person who makes a request for access to a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

Section 45(6) of the Act states:

The costs provided in this section shall be paid and distributed in the manner prescribed by the regulations.

Section 6 of R.R.O. 1990, Reg. 823 provides, in part:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act:

1. For photocopies and computer printouts, 20 cents per page.
...
3. For manually searching for a record after two hours have been spent searching, \$7.50 for each fifteen minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each fifteen minutes spent by any person.
...

In order to understand how the Board calculated its fee estimate and consider which portions of the charges are appropriate, I believe it is helpful to summarize the estimate as described by the Board in its decision letter.

Fees were claimed based on three minutes preparation time for an estimated 3,000 pages of records, which amounted to a total of 150 hours. Preparation time included:

- time involved in photocopying the original record for severing
- severing personal information contained in the records
- photocopying the severed record.

In addition to this preparation time, the Board claimed five hours for pulling class lists from binders and printing class lists that are on computer.

The first two hours of time were deducted from the 155 hours for a total of 153 hours. At \$7.50 for each 15 minutes, the fee charged for search/preparation amounted to \$4,590.

Photocopying charges included the cost of preparing 3,000 pages of records for severing at \$0.20 perpage and the cost of providing these records to the appellant at an additional \$0.20 per page, for a total of \$1,200.

In reviewing the Board's fee estimate, my responsibility under section 45(5) of the Act is to ensure that the amount estimated by the Board is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Board (Order 86). In my view, the Board discharges its burden by providing me with detailed information as to how the fee estimate has been calculated, and by producing sufficient evidence to support its claim.

The Board's representations include a sworn affidavit from a teacher for the Board who conducted the search for records and helped to prepare the fee estimate which was provided to the appellant. In her affidavit the teacher indicates that the Board's enrolment report to the Ministry of Education and the working papers used to compile the enrolment statistics for Partnership and Continuing Education programs contained information relevant to the request and was forwarded to the appellant.

She indicates further that class registers and class attendance lists of each program also contain relevant information. The teacher outlines the various programs which would have generated information relevant to the request and indicates that the responsive records for each program consist of registration forms, registers, class lists and attendance lists.

In order to prepare the fee estimate the teacher conducted a sample search for responsive records in the Continuing Education Programs. In her affidavit she outlines the time it took to perform the search and to prepare the records for this one area, and indicates that other programs would need to be searched in order to fully respond to the request as worded. Each program would contain similar records and require similar processing.

I will now examine each step the Board took in its calculation of the estimate to determine the reasonableness of the fee.

In its representations, the Board has broken down the actual costs for processing the request based on the sample search, and set out the tasks involved in providing one severed document as follows:

- (a) locate the file

- (b) pull the document
- (c) photocopy the document

time required: 1 minute

- (d) read document to determine what to block
- (e) block personal information

time required: 1 minute 55 seconds

- (f) photocopy the blocked document
- (g) return original to the file
- (h) destroy original photocopy
- (i) package the document
- (j) mail the document

time required: 6 minutes 45 seconds

Total time to prepare one document:

9 minutes 40 seconds

SEARCH CHARGE

The Board does not separate search charges from the cost of preparation. The Board's breakdown of tasks involved in providing one severed document include the time taken to "locate" the file (task (a)). There is no indication, however, of where the file is located, how it is maintained or whether one file contains one document or many documents. With respect to programs other than the one used in the sample, the Board indicates that files are contained in other locations but provides no further information relating to the time required to search for these files.

In my view, the Board has provided no evidence to support a claim for search time. I, therefore, disallow any charges for search time.

PREPARATION CHARGES

In its calculations under preparation, the Board estimated that it would take one minute to locate, pull and photocopy (tasks (a) through (c)) one severed document (which consists of one page), but does not indicate what is involved in, or how much time would be allocated to each task. I am not satisfied that the charges allocated to tasks (a) and (b) are appropriate. The Board includes the time taken to photocopy the severed copy of the record again in task (f). I note that the Board includes photocopying charges of \$0.20 per page in the Total Estimate.

Twenty cents per page is the maximum amount that may be charged for photocopying and this includes the cost of an individual "feeding the machine" (Orders 184, P-260 and P-490). Accordingly, the Board may not include the time to actually photocopy the records within the calculation of preparation time (tasks (c) and (f)).

The Board indicates that the documents at issue contain personal information such as participant names, addresses, telephone numbers and attendance data. The Board's representations make it clear that task (d) did not involve time taken to make a decision regarding the applicability of the exemptions to the records. I accept the Board's position, and I am satisfied that the charge of one minute 55 seconds per page to sever the records (tasks (d) and (e)) is appropriate in the circumstances.

With respect to tasks (g), (h), (i) and (j), the Board has not separated the cost for each task, and has included the time for photocopying (task (f)) in with the other four tasks. The Board has provided no breakdown regarding what was involved with respect to each task, and I am not satisfied that the charges allocated to these tasks are appropriate. I will, therefore, disallow any charges for preparation of the records as identified in tasks (g) through (j).

PHOTOCOPYING

The Board has charged a total of \$1,200 for the photocopying of approximately 6,000 pages. Included in this is a charge of \$600 for the copying of 3,000 pages at \$0.20 per page "in preparation for severing". The Board has claimed an additional charge of \$0.20 per page for these same 3,000 pages in its calculations of the charges for "copies of the severed records".

As I have indicated above, \$0.20 per page is the maximum that the Board may claim for photocopying charges. In my view, this amount should be interpreted as \$0.20 for each page **provided** to the appellant (Order M-163).

The Board submits that its estimate is based conservatively on 3,000 pages of records, however, in her affidavit, the teacher provides actual figures from the sample program amounting to 5,515 pages. She further indicates that additional records would be located in other program areas. During the inquiry, the Board advised that the fee indicated in the decision letter would be a final fee and would not be altered to reflect additional pages.

In summary, I find that the fees chargeable in this appeal are as follows:

Search time - no fee allowed	
Preparing the record for disclosure (severing the personal information)	
3,000 pages @ 1 minute 55 seconds per page	
= 5,750 minutes, approx. 96 hours @ \$30.00 per hour	\$2,880.00
Photocopying charges - 3,000 pages @ \$0.20 per page	\$ 600.00
TOTAL	<u>\$3,480.00</u>

ORDER:

I allow the Board to charge a final fee of \$3,480 for preparation and photocopying costs.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ July 25, 1994

POSTSCRIPT:

In preparing its fee estimate, the Board has taken a number of activities into consideration, such as the time expended by staff in photocopying the records and double-billing for the \$0.20 per page cost of photocopying the record. Order M-163 dealt with a fee estimate provided by the Board in another appeal. In that order, the Board was given clear direction regarding allowable charges in the preparation of a fee estimate. In my view, had the Board reflected on Order M-163 and applied it in this case, many of the charges in dispute would not have arisen.