



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-425

Appeal M-9400476

**Metropolitan Separate School Board
[Toronto]**



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

NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Metropolitan Separate School Board (the Board) received a request for access to a copy of a letter of resignation submitted by a named Parent-Teacher Association President at a particular school. The letter, dated September 21, 1993, is addressed to "All Parents of [the school]" and is two pages in length. The Board relies on the following exemption in denying access to the letter:

- invasion of privacy - section 14(1)

A Notice of Inquiry was provided to the parties to the appeal, including the author of the letter (the author). Because it appeared that the letter also contained the personal information of the appellants, the Appeals Officer asked for representations on the possible application of section 38(b) of the Act. Representations were received from the appellants and the author.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual, including an individual's name if it appears with other personal information relating to the individual. The appellants submit that as they are referred to by name in the letter, it contains their personal information. The author submits that, beyond the inclusion of the names of the appellants, nothing in the letter constitutes "recorded information about an identifiable individual" and, therefore, the letter does not contain the personal information of the appellants.

I have reviewed the letter and I find that it contains information which satisfies the definition of personal information. In my view, the personal information relates to both the author and the appellants.

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 of the Act provides a number of exceptions to this general right of access.

Under section 38(b) of the Act, where a record contains the personal information of both the appellant and another individual and the Board determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the Board has the discretion to deny the requester access to that information.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) of the Act apply, the Board must consider the application of the factors listed in section 14(2) of the Act, as well as all other considerations which are

relevant in the circumstances of the case. In my view, none of the presumptions contained in section 14(3) apply in the circumstances of this appeal.

In its decision letter, the Board indicated that it had considered the provisions of sections 14(2)(e) and (i) of the Act (unfair exposure to harm and unfair damage to reputation). However, the Board has not provided me with representations in this matter and, in his representations, the author has not advanced any considerations which favour privacy protection. I have, however, carefully reviewed the letter and it is my view that none of the considerations contained in section 14(2) of the Act which favour privacy protection are applicable in the circumstances of this appeal.

The appellants point out that the letter was read aloud to a public gathering at the school at which they were in attendance. The meeting was attended by members of the Board, staff, parents and students of the school. In addition, as I previously noted, the letter itself is addressed to "All Parents of [the school]" and the appellants are specifically named and referred to in this letter. The appellants also indicate that they were informed that the author intended to send copies of the letter home with students of the school.

After carefully considering the representations I have received, the letter and the circumstances of this appeal, it is my view that disclosure of the letter would **not** constitute an unjustified invasion of the personal privacy of the author. Accordingly, I find that section 38(b) does not apply.

ORDER:

1. I order the Board to disclose the letter in its entirety to the appellants within thirty-five (35) days of the date of this order and **not** earlier than the thirtieth (30th) day following the date of this order.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Board to provide me with a copy of the letter which is disclosed to the appellants pursuant to Provision 1.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ November 30, 1994