



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

# **ORDER M-581**

**Appeal M\_9500415**

**Toronto 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 requester submitted a request to the Toronto Board of Education (the Board) for the following records:

a copy of any report made by independent investigators for [the Board] pertaining to the actions of all staff members at Danforth Collegiate and Technical Institute.  
... To the best of my knowledge this report is called "Toronto Board of Education - Danforth Collegiate and Technical Institute".

...

I also would like reports by the Director of Education pertaining to the above matter.

The Board received this request on May 16, 1995. Under section 19 of the Act, a response to this request would normally have been required by June 15, 1995. However, on June 2, 1995, the Board wrote to the requester indicating that, under section 20 of the Act, the Board was extending the time for responding to the request until June 30, 1995 (i.e. an extension of fifteen days). The reasons given were that responding to the request may necessitate a search through a large number of records, and consultations outside the Board would be required in order to comply with the request.

On June 30, 1995, the Board again wrote to the requester indicating that the Board was claiming a further extension of the time for responding to the request, to September 15, 1995 (for a total extension of about three months from the original due date). The Board again indicated that external consultations would be required, and that the request would necessitate a search through a large number of records.

The requester did not appeal the extension mentioned in the Board's letter of June 2, but did file an appeal from the extension claimed in the Board's letter of June 30. Accordingly, the issue is whether the extension claimed in the Board's letter of June 30, 1995 is reasonable in the circumstances, having regard to the provisions of section 20(1) of the Act.

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

## **DISCUSSION:**

### **TIME EXTENSION**

The Board relies on section 20(1) of the Act in connection with the time extension claimed. This section states:

A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

I will begin by considering whether the Board has demonstrated that the time extension is reasonable with regard to the criteria in section 20(1)(a). The Board's letters claiming time extensions both refer to the ground established by this section. However, neither of these letters contains any detailed information to support the assertion that a search through a large number of records would be required. The Board's representations also make passing reference to this factor, mentioning "... the large number of records which must be reviewed in order to locate the records requested". Again, no detailed information is provided to support this assertion.

Because I have not been provided with any explanation to support the Board's assertion in this regard, I am unable to conclude that the time extension claimed by the Board is reasonable in the circumstances, with regard to the criteria in section 20(1)(a).

Turning to section 20(1)(b), the Board's representations indicate that the consultations required will be with legal counsel. I have not been advised as to whose legal counsel would be consulted, but presumably this is a reference to the Board's own counsel. The Board also states that it will not be in a position to seek advice from legal counsel until such time as the requested information is released in the labour arbitration proceedings, which is not anticipated to occur until "after mid\_September 1995".

Given that there has been no suggestion that the Board does not have custody or control of the responsive records, nor any indication that the Board's access to legal counsel is restricted in any way, I find this a puzzling statement. The Board's representations do not offer any further explanation for this position.

Based on the information provided to me, I am unable to conclude that the time extension claimed by the Board is reasonable in the circumstances, with regard to the criteria in section 20(1)(b).

Accordingly, I do not uphold the time extension claimed in the Board's letter of June 30, 1995.

**ORDER:**

1. I order the Board to issue a decision letter to the appellant within seven (7) days after the date of this order.
2. I further order the Board to provide me with a copy of the decision letter referred to in Provision 1 within ten (10) days after the date of this order, by sending it to my attention c/o Information and Privacy Commissioner/Ontario, Suite 1700, 80 Bloor Street West, Toronto, Ontario, M5S 2V1.

Original signed by: \_\_\_\_\_  
John Higgins  
Inquiry Officer

\_\_\_\_\_  
August 11, 1995

## **POSTSCRIPT:**

The procedure followed by the Board in this case, namely the use of two separate time extensions, is similar to the situation in Order P-234. In that case, Commissioner Tom Wright upheld the total time claimed, but indicated that he had concerns about the use of two separate extensions, stating that:

... [g]enerally speaking, it is my view that an institution, when assessing the time and resources it will need to properly respond to a request, must decide within the initial 30 day time limit for responding to the request, the length of any time extension it will need.

I agree with this view. Although this was not a ground for my decision in this case, I would encourage the Board to bear this in mind when claiming time extensions in future.