



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

ORDER M-681

Appeal M_9500421

York Region Board of Education



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NATURE OF THE APPEAL:

The appellant submitted a request to the York Region Board of Education (the Board) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to the names of all the teachers employed at a named Board school who did **not** attend a staff meeting held at the school on May 3, 1995.

In response to another request, the appellant had been previously provided with the **number** of teachers who did not attend this meeting as well as the **reasons** for their non-attendance. The appellant was advised that 12 teachers were absent, four due to scheduled athletic events, five due to illness, one because of an interview and two for whom no stated reason was given.

The Board denied access to the names of the teachers on the basis that to do so would be an unjustified invasion of the teachers' personal privacy under section 14 of the Act.

The appellant filed an appeal of the Board's decision.

A Notice of Inquiry was sent to the appellant, the Board, the teachers who did not attend the meeting (the teachers) and the school principal. Representations were received from the Board, the appellant, and four of the teachers. All of these teachers objected to the release of the requested information.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

It is the appellant's contention that attendance at the staff meeting is not personal information because teachers are expected to attend such meetings in their professional capacity. He states that a Compliance Investigator from this office advised him of this interpretation. I have reviewed the correspondence referred to by the appellant in this regard. It does not contain a finding that non-attendance at a staff meeting does not constitute a teacher's personal information.

The appellant also cites past orders of the Commissioner's office which he maintains stand for the proposition that information about an individual's professional activity becomes personal information only if it is part of an investigation into the conduct of that individual, which he states is not the case in the present appeal.

The Board's position is that the attendance record, noting the teachers who were absent, constitutes the personal information of these individuals. In this regard, it cites Order P-718 which found that bi-monthly attendance reports of institution employees constituted their personal information. The Board also refers to Order P-232 in which information related to whether an individual was absent from work and the reason for that absence constituted personal information. The "Personal Attendance Form" documenting the monthly attendance of a member of the Rent Review Hearings Board was found to be personal information in Order P-863.

All of these orders involve records of an employee's attendance at his or her workplace. In addition, many of the records at issue in these orders included such information as the sick days and vacation time taken by the employees. In this appeal, the issue is attendance at a staff **meeting**.

The Board agrees that teachers must attend staff meetings in accordance with Board procedure and their duties. The Board notes that, in accordance with Board procedure, staff must also notify the principal if they cannot make a meeting. Failure to do so breaches this procedure as well as the teacher's contract, terms of the collective agreement and provisions of the Education Act. Finally, the Board notes that failure to supply advance notice results in a follow-up meeting with the principal and "... may result in a notation in the employee file that impacts performance evaluations in accordance with the fair step-up discipline process".

In my view, all the actions taken by employees in their professional capacity may have potential performance implications. In the present case, the document on which the requested information is recorded does not indicate which teachers notified the principal that they could not attend the meeting. Nor does the record indicate which of these teachers, if any, attended a follow-up meeting with the principal. Furthermore, neither the record nor the submissions of the Board confirms that the performance evaluations of any of the absent teachers were adversely affected because of the non-attendance.

In addition, I note that the disclosure of the names of the absent teachers in conjunction with the information previously released to the appellant, i.e. the number of absent teachers and the reasons for their absence, would not reveal any personal information about any identifiable individual. First of all, the attendance record only indicates those four teachers who did not attend because of their involvement with a school athletic event, undertaken as part of their employment responsibilities. Secondly, there is no indication on the record which of the eight other absent teachers did not attend because of other reasons. Moreover, because of the number of individuals involved, it is my view that the reason why a particular teacher was absent cannot be discerned from linking the names of the absent teachers with the general list of reasons for the absences.

Accordingly, having considered the submissions of both the Board and the appellant, I am of the view that the mere fact of the teachers' non-attendance at the staff meeting does not constitute their personal information. Because the information at issue is not personal information section 14 of the Act has no application.

ORDER:

1. I order the Board to disclose to the appellant the names of the teachers who did not attend the staff meeting at the named Board school on May 3, 1995.
2. I order that the Board send the information identified in Provision 1 to the appellant by **February 9, 1996** and not before **February 5, 1996**.
3. In order to verify compliance with the provisions of this order, I reserve the right to require that the Board provide me with a copy of the information which is disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ January 5, 1996