



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

ORDER M-811

Appeal M_9600171

Northumberland-Clarington Board of Education



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

NATURE OF THE APPEAL:

The Northumberland-Clarington Board of Education (the Board) received a request dated March 26, 1996 under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to expense claims submitted by the Board's chairperson for the period December 1, 1994 to November 30, 1995. The requester is a Trustee with the Board.

Under section 45(1) of the Act, the Board responded by providing the requester with a decision letter dated May 17, 1996 which included a fee estimate of \$215 and alluded to the need to sever portions of the records in order to protect the personal privacy of the individual named in them. The fee estimate was broken down as follows:

Application Fee	..	\$ 5
Search Time - 2 hours @ \$30 per hour	..	60
Record Preparation - 4.5 hours @ \$30 per hour	..	135
Photocopying - 75 pages @ \$0.20 per page	..	15
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Total	..	\$215
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The requester (now the appellant) appealed the amount of the Board's fee estimate.

A Notice of Inquiry was provided to the appellant and the Board. Representations were received from both parties. The appellant disputes the amounts claimed by the Board for search time and for the preparation of the records for disclosure.

DISCUSSION:

FEE ESTIMATE

The request and the subsequent appeal are governed by the following statutory and regulatory provisions:

Section 45(1)

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required 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;

- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

R.R.O. 1996, Regulation 823, Section 6, as amended by Regulation 22/96

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.
2. For floppy disks, \$10 per disk.
3. For manually searching for a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of a record, \$7.50 for each 15 minutes spent by any person.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

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, who discharges this 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 indicates that in order to locate the requested records, it will first be necessary to conduct a search of its computer records to isolate the information sought. Following this procedure, a manual search of its paper records is necessary to select the documents and gather them together. In addition, the Board submits that some of the responsive records are kept off-site. The Board also explains the steps necessary to prepare the records for release, including the severing of personal information contained in the documents. The Board states that it will take two hours of staff time to search for the responsive records and a further four and one-half hours to prepare the records, estimated to total 75 pages, for disclosure.

The appellant submits that the information is readily retrievable by the Board and that it ought to be allowed only one-half hour to perform the search. The appellant also makes reference to my

finding in Order M-782 in which I allowed the Board two minutes of preparation time per page. The appellant submits that the allowable preparation time should, accordingly, be two and one-half hours (two minutes X 75 pages).

I have reviewed the representations of the parties and make the following findings:

1. I accept that the estimated search time described by the Board in its decision letter is reasonable in the circumstances of this appeal.
2. The Board's estimate of the time required to prepare the records for disclosure is not reasonable. In Order M-782, which involved records of a similar nature which required similar severing, I allowed the Board two minutes of preparation time per page. I find that this is a reasonable amount of time to perform the preparation work necessary to disclose records of this type. The Board is entitled to claim up to two and one-half hours for the preparation of the records, should they total 75 pages.
3. I allow the Board to charge a fee of \$0.20 per page for photocopying in accordance with the provisions of Regulation 823.

In summary, I find that the Board should adjust its fee estimate for the processing of this request as follows:

Application Fee	..	\$ 5
Search Time (2 hours @ \$30 per hour)	..	60
Preparation Time (2.5 hours @ \$30 per hour)	..	75
Photocopying - 75 pages @ \$0.20 per page	..	15
Total	..	<div style="border-top: 1px solid black; display: inline-block; width: 100%;"></div> \$155 ===

ORDER:

1. I order the Board to provide her with an amended fee estimate in accordance with the guidelines described above by sending it to her by **August 16, 1996**.
2. Within twenty-one (21) days of the payment of the fee by the appellant, I order the Board to disclose all of the information contained in the responsive records with the exception of any personal information such as bank account, credit card and telephone numbers, as well as billing information which is referable to any identifiable individual.
3. Should the appellant be dissatisfied with the nature and extent of the severances made to the records which are disclosed to her pursuant to Provision 2, she may ask this office for a review of the Board's decision under section 4(1) of the Act.

Original signed by: _____
Donald Hale

_____ July 26, 1996

Inquiry Officer