



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

ORDER M-1062

Appeal M-9700268

Simcoe County Board of Education



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NATURE OF THE APPEAL:

The appellant made a request to the Simcoe County Board of Education (the Board) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for copies of any telephone bills that indicate calls placed to numbers in the 976 exchange of any area code or calls placed to the 900 area code, between June 1 and August 31 1994.

The Board responded to this request and asked the appellant for payment of 50% of its estimated fee of \$92.00 before proceeding with the processing of this request, indicating that the information would be released upon payment of the full amount. The fee estimate was detailed as follows:

- 2 hours' search (no charge)
- 2½ hours' additional search (\$30/hr) -- \$75
- photocopies (20 cents/page) -- \$2
- preparing a record for disclosure (\$7.50/15 minutes) -- \$15

The appellant appealed the quantum of the estimated fee because he believed it to be excessive.

This office provided a Notice of Inquiry to the Board and the appellant. Representations were received from the Board only.

DISCUSSION:

FEES

The decision was issued pursuant to a previous version of section 45(1), which provided for two hours of free search time. Section 45(1) of the Act and the accompanying regulations dealing with fees were amended in February, 1996 by the Savings and Restructuring Act (Bill 26). The request and appeal in this case were initiated **before** these amendments. Therefore, the relevant provisions of section 45(1) and the accompanying regulations for the purposes of this appeal are those which existed at the time of the request and appeal.

The charging of fees is authorized by section 45 of the Act. The previous (and applicable) version of this section states:

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 6 of R.R.O. 1990, Regulation 823 states, 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 a record after two hours have been spent searching, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- ...

Search time

The Board indicates that it has in excess of 500 telephone lines. The Board submits that in order to provide the appellant with the requested information, all 500 bills would need to be reviewed for the months of June, July and August. This could mean that three bills per line or up to 1500 bills would have to be reviewed. The Board indicates that the estimated search time of 4½ hours (of which only 2½ hours was charged to the appellant) is greatly underestimated. In my view, the Board's estimate of the amount of time required to search for responsive records is more than reasonable given the number of records which must be reviewed to locate the information requested by the appellant.

Photocopies and Preparation time

With respect to this portion of the fees, the Board simply indicates that "the cost for photocopying and preparing the record is also most reasonable considering the enormity of the task". This submission provides absolutely no basis upon which to determine the reasonableness of the amounts charged.

However, I note that the Board indicates that it is prepared to provide access to the information requested by the appellant. The Regulations stipulate that the Board may charge \$0.20 per page for photocopies. I allow the Board to charge this amount for photocopies provided to the appellant in response to his request. The Board estimates that this will cost the appellant \$2 (for 10 pages). If the

actual number of pages is less than 10, the Board must reimburse the appellant the reduced amount. If the number of pages is greater than 10, the Board may charge the appellant the actual amount.

It is incumbent on the Board to establish that the preparation costs in responding to this request are reasonable. While I might surmise that the Board may be required to sever information from the records before they are disclosed to the appellant, I am unable to ascertain how much severing would be required and the basis upon which the Board has estimated that the amount charged is reasonable. Accordingly, I am unable to uphold the Board's estimate of this cost and the amount charged for preparation time is disallowed.

ORDER:

1. I uphold the Board's decision to charge \$75 for search time.
2. I allow the Board to charge \$0.20 per page for photocopying the records.
3. I do not uphold the Board's decision to charge \$15 for preparation time.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ January 15, 1998