



Information and Privacy  
Commissioner/Ontario

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

# **ORDER M-1163**

## **Appeal M-9800011**

### **Le Conseil scolaire public de district Centre-Sud**



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## **NATURE OF THE APPEAL:**

Le Conseil scolaire public de district Centre-Sud (the Conseil), formerly known as Le Conseil des écoles françaises de la communauté urbaine de Toronto (CEFCUT), received a request from a representative of the electronic media under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to information with respect to the expenses incurred by CEFCUT in relation to complaints made against it by [a named individual]. The Conseil located a document containing the requested information and denied access to it. It later provided the requester with a further decision letter in which it indicated that it was withholding access to the information in the record under section 14(1) of the Act (invasion of privacy).

The requester, now the appellant, appealed the Conseil's decision and also raised the possible application of section 16 of the Act, the so-called "public interest override".

A Notice of Inquiry was provided to the appellant, the Conseil and to the individual named in the request (the affected person). Representations were received from the affected person only. The affected person indicates that he has no objection to the disclosure of any personal information which relates to him so long as a copy of the subject record is also made available to him.

During the inquiry stage of the appeal, the Conseil confirmed that it would be prepared to disclose the record to both the appellant and the affected person if the record was found to be not exempt under section 14(1).

## **DISCUSSION:**

### **PERSONAL INFORMATION**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including the individual's name where it appears with other personal information about him or her.

The record at issue is entitled "Frais Juridiques Encourus Par Le Conseil En Rapport Avec [the affected person]". The document includes a dollar figure for the period 1990 to 1997 and a brief explanation of the expenses which comprise this amount.

The information contained in the record reveals that the affected person was involved in litigation with CEFCUT. The record identifies this individual by name and indicates that, as a result of the affected person's actions, CEFCUT incurred the expenses shown. In my view, the information contained in the record qualifies as the personal information of the affected person. The record does not refer to any other individual.

### **INVASION OF PRIVACY**

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances. Section 14(1)(a) provides:

[IPC Order M-1163/November 20,1998]

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

The affected person has confirmed with this office that he consents to the disclosure of his personal information to the appellant on the condition that he also receives a copy of the record. The Conseil has agreed to satisfy this condition by providing him with a copy. The affected person has not, however, provided the Conseil with a written consent, as required by section 14(1)(a).

Accordingly, I find that the exception to the general rule against the disclosure of personal information contained in section 14(1)(a) has not been satisfied.

Another exception to the prohibition against the disclosure of personal information in section 14(1) is contained in section 14(1)(f) of the Act, which reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy. Once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in section 14(2).

A section 14(3) presumption can be overcome if there is a finding under section 16 of the Act that a compelling public interest exists in the disclosure of the record which clearly outweighs the purpose of the section 14 exemption.

The affected person has clearly indicated in his submissions that he has no objection to the disclosure of the personal information contained in the record, so long as he is also provided with a copy. In my view, this is very persuasive evidence weighing in favour of a finding that the disclosure of the personal information contained in the record would not constitute an unjustified invasion of personal privacy of the individual to whom it relates. Clearly, the affected person does not consider the disclosure of the personal information to be an unjustified invasion of his personal privacy, despite the imposition of a condition prior to his consent being granted.

In balancing the factors which favour disclosure against those in support of privacy protection under section 14(2), I find that this unlisted consideration weighs heavily in favour of disclosure. In my view, in the circumstances of this appeal, no other factors favouring the non-disclosure of this information could outweigh the consent of the affected person to disclosure.

Accordingly, I find that the exception in section 14(1)(f) applies in the present circumstances and that the disclosure of the record would not result in an unjustified invasion of the personal privacy of the affected person. The record is not, therefore, exempt under section 14(1).

Because of the manner in which I have addressed the application of section 14(1) to the record, it is not necessary for me to consider the possible application of section 16 of the Act.

**ORDER:**

1. I order the Conseil to disclose the record to the appellant by providing her with a copy by **December 29, 1998**, but not before **December 21, 1998**.
2. In order to verify compliance with the terms of this order, I reserve the right to require the Conseil to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Donald Hale  
Adjudicator

\_\_\_\_\_  
November 20, 1998