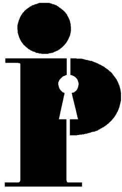

Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER MO-2118-I

Appeal MA-050405-1

York Catholic District School Board

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NATURE OF THE APPEAL:

The York Catholic District School Board (the Board) received two requests under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to:

1. … a copy of a letter written on [specified date] by [named individual] Teacher-in-Charge at [named school] in which I am identified as a parent and audience member at a … school concert at [a specific venue]. This letter was forwarded to the school principal [named individual] and [named individual], Superintendent at the [Board]; and

2. … a copy of a letter written during [specified time period] by [named individual], supply teacher at [named school], in which I am identified as an audience member at a … school concert at [a specific venue]. This letter was subsequently forwarded to the principal [named individual] in the same period of time.

The Board identified two records as responsive to the requests and notified the two individuals who had written them, pursuant to section 21 of the *Act*, to seek their representations on the disclosure of the letters. Upon receiving a response from both individuals, the Board issued one decision letter to respond to the two requests and denied access to the records under section 14(1) (invasion of privacy). The requester, now the appellant, appealed the decision to this office.

During mediation, the mediator determined that the records may contain the personal information of the appellant. Consequently, the application of the invasion of personal privacy exemption at section 38(b), in conjunction with section 14(1), was added as an issue in this appeal. No further mediation was possible and this appeal moved to adjudication, where it was assigned to me to conduct an inquiry.

I commenced my inquiry by issuing a Notice of Inquiry seeking the representations of the Board and two individuals whose interests may be affected by the outcome of this appeal (the affected parties). Both affected parties sent correspondence in response to the Notice of Inquiry, but the Board declined the opportunity to submit representations.

I then sent a revised Notice of Inquiry to the appellant, but did not enclose a copy of the representations provided by the affected parties as I determined these to be confidential in nature. The appellant provided representations in response and indicated that she wished them to be kept confidential, as well.

RECORDS:

There are two records at issue in this appeal and each of these is a two-page letter.

DISCUSSION:

PERSONAL INFORMATION

The Board has denied access to the records claiming that their disclosure would constitute an unjustified invasion of personal privacy under section 38(b), taken in conjunction with section 14(1). In order for this exemption to apply, I must determine whether the record contains personal information and, if so, to whom it relates.

Section 2(1) of the *Act* defines personal information, in part, as follows:

> "personal information" means recorded information about an identifiable individual, including,
>
> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (e) the personal opinions or views of the individual except where they relate to another individual,
>
> (g) the views or opinions of another individual about the individual, and
>
> (h) the individual's name if 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;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information (Order 11).

The records at issue relate to events that transpired at a school concert.

The appellant suggests in her representations that the professional capacity of the affected parties affects the characterization of the information in the records. I cannot elaborate further on the appellant's position without revealing confidential portions of her representations. However, whether or not these letters were written by an individual acting in a professional capacity is not relevant to my determination of whether the records contain the personal information of the appellant or other individuals. Accordingly, I need not address this point further.

I have reviewed both of the records and for the reasons that follow, I find that each contains the personal information of the appellant and of other individuals, including the affected parties.

The copy of Record 1 which was provided to this office appears to have had identifying information removed from it. The copy does not contain a salutation, return address or a signature line identifying the writer. However, I note that Record 1 contains information relating to the religion, marital or family status and other details about its author, the first affected party, which qualifies as that individual's personal information under paragraphs (a) and (h) of the definition of the term "personal information" found in section 2(1) of the *Act*.

In describing what transpired at the school concert, the first affected party also provides information about individuals other than herself and the appellant. This information includes marital or family status, views or opinions about other individuals, and names with accompanying details, all of which qualify as the personal information of other individuals under paragraphs (a), (g) and (h) of the definition of that term in section 2(1).

As the individual specifically identified in the letter by the first affected party, the record also contains the appellant's personal information since it includes her name along with the affected party's views or opinions about the appellant and a description of the appellant's actions at the school concert, as contemplated by paragraphs (g) and (h) of the definition. I find, therefore, that Record 1 contains the personal information of the appellant, as well as that of the first affected party and other identifiable individuals.

Turning to Record 2, I note that it also contains information relating to the religion, marital or family status, address, name and other details about the second affected party, which qualifies as that individual's personal information under paragraphs (a), (d) and (h) of the definition of the term "personal information" in section 2(1) of the *Act*.

The appellant's personal information appears in Record 2 in the form of certain views or opinions expressed about her by the second affected party, within the meaning of paragraph (g) of the definition of personal information in section 2(1).

As with Record 1, the recounting of events in Record 2 also provides information about identifiable individuals other than the second affected party and the appellant, including marital or family status, the views or opinions about other individuals, and names with accompanying details. All of this qualifies as the personal information of other individuals under paragraphs (a), (g) and (h) of section 2(1) of the *Act*.

In circumstances where a record contains both the personal information of the appellant and another individual, the request falls under Part II of the *Act* and the relevant personal privacy exemption is that described in section 38(b) (Order M-352). Some exemptions, including the personal privacy exemption at section 14(1), are mandatory under Part I. Other exemptions, such as section 38(b), are discretionary and fall under Part II. Accordingly, in the latter case, an institution may exercise its discretion to disclose information that it could not disclose if Part I is applied (Order MO-1757-I).

DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION

PERSONAL PRIVACY

As previously noted, the Board is relying upon section 38(b), in conjunction with section 14(1), to deny access to the records at issue. I must now determine if the personal information qualifies for exemption under the discretionary exemption at section 38(b) of Part II of the *Act*. I will consider the exercise of discretion by the Police at the end of this order.

General Principles

Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides a number of exemptions from this right.

Section 38(b) reads as follows:

> A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > if the disclosure would constitute an unjustified invasion of another individual's personal privacy.

As noted above, section 38(b) of Part II of the *Act* effectively allows the Board to disclose information that it could not disclose if Part I were applied (Order MO-1757-I), while still retaining that same discretion to deny the appellant access to the information if it determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy.

Section 38(b) introduces a balancing principle, which involves weighing the requester's right of access against the other individual's right to protection of their privacy. On appeal, I must be satisfied that disclosure of the information **would** constitute an unjustified invasion of another individual's personal privacy (see Order M-1146).

Under section 38(b), sections 14(1) to (4) provide guidance in determining whether the threshold for an unjustified invasion of personal privacy under section 38(b) is met. If the information fits within any of paragraphs (a) to (e) of section 14(1), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b). If any of paragraphs (a) to (c) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

Section 14(3) lists a number of presumptions against disclosure. The Divisional Court has stated that once a presumption against disclosure has been established under section 14(3), it cannot be rebutted by either one or a combination of the factors set out in 14(2) (*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (*John Doe*)) though it can be overcome if the personal information at issue falls under section 14(4) of the *Act*, or if a finding

is made under section 16 of the *Act* that a compelling public interest exists in disclosure of the record in which the personal information is contained which clearly outweighs the purpose of the exemption (see Order PO-1764).

However, it is not necessary for me to consider whether the appellant's own personal information qualifies for exemption under section 38(b) using the analytical framework outlined above since its disclosure to her cannot result in an unjustified invasion of another individual's personal privacy, as required by that section.

Accordingly, I am ordering the disclosure of the appellant's own personal information to her. I have provided the Board with a highlighted copy of the records indicating those portions of the records which are to be disclosed to the appellant.

My analysis will now proceed reviewing only those portions of the records at issue containing the personal information of the affected parties and other individuals.

Representations

The Board submitted no representations. When contacted by a staff member from this office, the Board indicated that it wished to rely on the position taken in the decision letter, in which it is simply stated that the Board is "unable" to disclose the information because of section 14(1) of the *Act*. I note that the Board's decision was made after the affected parties were notified pursuant to section 21 of the *Act* and had provided their views on disclosure.

In response to the Notice of Inquiry, the first affected party sent a letter to this office in which she declined to provide consent to the disclosure of Record 1, which she characterized as private correspondence between herself and the Board.

The second affected party provided representations in which she conveyed her opinion that the matter arising from the incident described in her letter had already been addressed at the school level and no useful purpose could now be served by the letter's disclosure at this point.

The appellant provided me with representations in response to the Notice of Inquiry that were accompanied by a cover letter and copies of correspondence relating to the events occurring at, and after, the school concert. In reviewing the appellant's representations, I accept, for the most part, her request that the confidentiality of these representations should be maintained; however, in order to convey the appellant's position, I will set out her representations in summary form.

The appellant contends that the records at issue should be characterized as public records and should, therefore, be considered to fall within the ambit of the exception to the personal privacy exemption found at section 14(1)(c) of the *Act* because the letters were written by teachers from the school, in their professional capacity, and disseminated publicly or, at least, to the school community.

The appellant refers to a situation at the school (pre-dating the concert in question) which led her to lodge a complaint about a certain staff member. She describes the school administration's response to her complaint, which she claims was not adequate. The appellant goes on to claim that the school administration's response upon receiving the records at issue led to an unfair process by which she was publicly judged and which failed to provide her with a proper opportunity to defend herself. The appellant indicates that she seeks to correct the records, a point I will address later in my reasons.

The appellant disputes the Board's claim that disclosing the records to her would constitute an unjustifiable invasion of privacy of the affected parties, suggesting that the Board only takes this position to avoid scrutiny of the unfair process by which her reputation was damaged.

On the application of the absurd result principle, discussed below, the appellant contends that due to her direct involvement in, and knowledge of, the incident and the parties involved, the information ought to be disclosed to her.

The appellant provided lengthy representations to support her contention that the Board exercised its discretion in bad faith and without reference to the factors it should properly have considered in making its decision about disclosure of the records.

Analysis and Findings

In the present appeal, none of the presumptions against disclosure under section 14(3) of the *Act* have been cited by the Board and none would apply. Similarly, the exceptions in section 14(4) and the public interest override in section 16 have not been raised and are not, in any event, applicable in the circumstances of this appeal. Accordingly, my analysis is focused on sections 14(1) and 14(2).

I will now review the possible application of the exception in section 14(1)(c) suggested by the appellant. Section 14(1)(c) reads:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> > personal information collected and maintained specifically for the purpose of creating a record available to the general public;

I have already found that the records at issue contain personal information, both of the appellant and other identifiable individuals. For this exception to apply, however, I must be satisfied that the specific purpose for which the personal information was collected and maintained was to create a *publicly available* record (Orders P-318, MO-1366, MO-2058).

In my view, the evidence does not demonstrate that the record was collected and maintained specifically for the purpose of creating a record available to the general public. Based on my review of the records, it is evident that the affected parties wrote the letters with the intention of

informing school administration about what they (the affected parties) witnessed at the school concert. In these circumstances, I am not satisfied that the personal information contained in the records was collected for the specific purpose of creating, or maintaining, a record of general public availability and I find that section 14(1)(c) has no application in the circumstances of this appeal.

Since none of the exceptions at section 14(1)(a) to (e) apply, I must now review the factors in section 14(2) of the *Act*.

Section 14(2) factors

As previously noted, the factors in section 14(2) offer some guidance to an institution in considering whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Although no specific references to any of the factors in section 14(2) were provided by any of the parties, several are raised implicitly by the circumstances of the appeal and by the representations of the appellant.

The relevant portions of section 14(2) provide:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
>
>> (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny; …
>>
>> (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
>>
>> (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
>>
>> (f) the personal information is highly sensitive; ...
>>
>> (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
>>
>> (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

Factors favouring disclosure

The factors listed at paragraphs (a) through (d) of section 14(2) of the *Act* are those which may be relied upon to support the disclosure of information at issue in an appeal.

The appellant's confidential representations suggest reliance upon the factors at paragraphs (a) and (d) of section 14(2) to justify disclosure. However, for the reasons set out below, I find that neither factor is applicable in the circumstances of this appeal.

The appellant's representations suggest that the information she seeks will permit scrutiny of the Board's actions in responding to the events of the school concert (paragraph (a)) and will also allow her to see for herself for the first time the "case made against her" through these letters, which she suspects contributed to unfairly reached conclusions about her actions at the school concert (paragraph (d)).

In order to support a finding that section 14(2)(a) applies to the disclosure of the personal information at issue, the appellant must demonstrate that the activities of the Board have been called into question *publicly* and that the information sought will contribute materially to the scrutiny of those specific activities. In the present appeal, however, the personal information sought by the appellant relates to her own involvement in events taking place at a school concert. In my view, this is a private interest. Although the appellant has expressed concern (and claims to have initiated a complaint) about the practices of a specific staff member at the school and the school's support of that same staff member, there is no evidence before me to support a finding that disclosure of the personal information *in the records at issue* would meaningfully assist in the scrutiny of any role the Board may play in that separate situation. I must be satisfied that reliance on this factor would serve to promote its objective, which is to ensure an appropriate degree of scrutiny of institutional activities by the public at large (see Order P-1014). In the circumstances of this appeal, I am not so satisfied and I find that the factor at section 14(2)(a) is inapplicable.

The appellant's desire to see the actual content of the letters describing her actions at the school concert might suggest the application of the factor at section 14(2)(d), which relates to a fair determination of rights. In my view, however, this section does not apply in the circumstances.

Previous orders of this office have established a four-part test for reliance upon this factor. For section 14(2)(d) to apply, the appellant must establish that:

> (1) the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and
>
> (2) the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and
>
> (3) the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and
>
> (4) the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing

(Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.)).

However, in my view, there is no evidence before me, either provided by the appellant or implicit in the circumstances of the appeal, to satisfy me that the first part of this test is met, namely that the right in question is a *legal* right drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds. Notwithstanding the appellant's perception of having been treated unfairly by school administration following the events of the school concert, the existence of an imperiled *legal* right has not been established and I find that section 14(2)(d) does not apply.

Factors favouring privacy protection

The factors listed at paragraphs (e) through (i), which speak to protecting the privacy of the individuals to whom the personal information at issue relates, must also be incorporated into the balancing of factors under section 14(2). In approaching the balancing of the considerations in section 14(2), I am mindful of the affected parties' confidential representations to me regarding disclosure of the records. In these circumstances, I find that the factors at paragraphs (e), (f), (h) and (i) of section 14(2) may be relevant.

Having considered the records themselves and the representations of the parties, and for the reasons that follow, I find that paragraph (i) (unfair damage to reputation) does not apply, but that paragraphs (e) (unfair harm), (f) (highly sensitive) and (h) (supplied in confidence) are relevant in the circumstances.

The question that must be asked to determine the applicability of section 14(2)(i) is whether the disclosure of the information would *unfairly* damage the reputation of the individual whose information it is. The emphasis is intentionally placed on the qualifier. I have considered both records at issue in this light and, in my view, neither record's disclosure would give rise to the harm addressed by this factor. The information was provided voluntarily to the school and Board by the affected parties. In my view, the likelihood of any damage resulting from disclosure of the personal information remaining at issue is remote at best. Rather, the damage that might flow from disclosure of the records as a whole in a public forum would be damage that has already, by the appellant's account, occurred to her reputation. In these circumstances, I find that section 14(2)(i) does not apply as a factor favouring privacy protection.

Turning to the factor at section 14(2)(e), this office has held that although the disclosure of personal information may be uncomfortable for those involved in an already acrimonious matter, this does not mean that harm would result, or that any resulting harm would be unfair (Order PO-2230). However, it has also been held that the unfair harm contemplated by section 14(2)(e) is foreseeable where disclosure of personal information is likely to expose individuals to unwanted contact with the requester (see M-1147), or where such disclosure could expose the individuals concerned to repercussions as a result of their involvement in an investigation by the institution (see PO-1659). Based on the information before me, it is reasonable to conclude that the

appellant does not consider the school concert matter resolved and that, in the circumstances, disclosure of the personal information at issue could lead to unfair exposure to some form of pecuniary or other harm to the affected parties. Accordingly, I find that the factor at section 14(2)(e) is relevant in this appeal.

For personal information to be considered highly sensitive in the manner contemplated by section 14(2)(f), I must be satisfied that disclosure of the information could reasonably be expected to cause significant personal distress to the subject individual (Order PO-2518). I have considered the representations provided to me by the affected parties about disclosure. Based on the nature of the personal information and the surrounding circumstances of this matter, I am persuaded that disclosure of the personal information remaining at issue could cause significant personal distress to the affected parties and to other individuals. I find that the factor at section 14(2)(f) is relevant in the circumstances of this appeal.

The relevance of the factor found at section 14(2)(h) is determined by an evaluation of whether the personal information was supplied by the individual to whom the information relates in confidence. Any assurances of confidentiality given to the individual providing the information must also be considered. In writing letters describing the events which transpired at the school concert, the affected parties supplied the Board with personal information relating to themselves and to other individuals, including the appellant. Although I have no specific evidence before me on this point, it would have been, in my view, reasonable to conclude from the circumstances that the affected parties expected some level of confidentiality or discretion regarding, at least, the use of their own information. Given that I have already ordered the personal information of the appellant disclosed to her, I find that the section 14(2)(h) factor applies to the remaining personal information of the affected parties. I would, however, place low weight on this consideration because this factor cannot apply to the personal information of the other individuals which was provided by the affected parties.

Subject to my discussion of the absurd result principle and the Board's exercise of discretion below, I find that the factors at section 14(2)(e), (f) and (h) apply to the personal information remaining at issue in the records. Having balanced the factors favouring privacy protection against the appellant's right of access, I conclude that its disclosure would constitute an unjustified invasion of personal privacy of the affected parties and other individuals. Accordingly, this information qualifies for exemption under section 38(b) of the *Act*.

Absurd Result

Where the requester originally supplied the information, or is otherwise aware of it, the information may be found not to be exempt under section 38(b), because to find otherwise would be absurd and inconsistent with the purpose of the exemption (Orders M-444, MO-1323).

The absurd result principle has been applied in appeals where, for example, the requester was seeking access to his or her own witness statement (Orders M-444, M-451); the requester was present when the information was provided to the institution (Orders M-444, P-1414); or the information was clearly within the requester's knowledge (Orders MO-1196, PO-1679, MO-

1755). However, the absurd result principle may not apply even if the information was supplied by the requester or is clearly within the requester's knowledge *if* disclosure would be inconsistent with the purpose of the 38(b) exemption.

The appellant and the second affected party provided representations on the application of the absurd result principle. Without divulging these confidential representations, I can state that both acknowledge, albeit for different reasons, that the information is generally within the appellant's knowledge. The appellant provided me with copies of additional documentation in her possession in which segments of the information in the records at issue in this appeal are reproduced.

Findings

I accept that the appellant is already aware of at least some of the information in the records, relating to her and to other identifiable individuals, including the affected parties. Since the appellant will receive her own personal information as a result of my findings above, however, I need only consider the application of the absurd result principle in relation to the personal information of other individuals contained in these records.

Adjudicator Laurel Cropley recently discussed this office's approach to the application of the absurd result principle in appeals involving the personal information of other individuals (Order MO-2114). Adjudicator Cropley quoted from her own reasons in Order MO-1524-I as follows:

> The privacy rights of individuals other than the appellant are without question of fundamental importance. One of the primary purposes of the *Act* (as set out in section 1(b)) is to protect the privacy of individuals. Indeed, there are circumstances where, because of the sensitivity of the information, a decision is made not to apply the absurd result principle (see, for example, Order PO-1759). In other cases, after careful consideration of all of the circumstances, a decision is made that there is an insufficient basis for the application of the principle (see, for example, Orders MO-1323 and MO-1449). In these situations, the privacy rights of individuals other than the requester weighed against the application of the absurd result principle.

In this appeal, the records contain the personal information of identifiable individuals other than the appellant relating to an incident that took place at the appellant's child's school. It is apparent from the appellant's representations that her relationship with the administration at the school continues to be a source of discontent for her. In my view, the acrimony evidently still present in relation to this situation constitutes a compelling reason for not applying the "absurd result" principle. I find that disclosure of the remaining personal information in the records, which belongs to other individuals, would be inconsistent with the purpose of the exemption at section 38(b), namely to protect individuals from unjustified invasions of their personal privacy.

In the circumstances of this appeal, I find that the absurd result principle does not apply and that it would not be absurd to withhold the remaining information I have found to be exempt under section 38(b).

EXERCISE OF DISCRETION

As already mentioned above, the Board had the discretion under section 38(b) of the *Act* to disclose the information contained in the records found to qualify for exemption, including the personal information of other identifiable individuals.

On appeal, an adjudicator may review the institution's decision in order to determine whether it exercised its discretion and, if so, to determine whether it erred in doing so. I may find that the Board erred in exercising its discretion where, for example, it does so in bad faith or for an improper purpose, it takes into account irrelevant considerations, or it fails to take into account relevant considerations. In these cases, I may send the matter back to the Board for an exercise of discretion based on proper considerations (Order MO-1573). However, I may not substitute my own discretion for that of the Board.

As I have already noted, the Board declined to provide representations in response to the Notice of Inquiry setting out the issues before me in this appeal. Although I am not at liberty to share the specifics of the appellant's position on the Board's exercise of discretion, I will state more generally that she has argued that the Board exercised its discretion in bad faith, not accounting for relevant consideration and instead taking into account irrelevant considerations.

In reviewing the exercise of discretion in this appeal without the benefit of representations from the Board, I am left to wonder, for example, why the Board would not exercise its discretion to disclose the appellant's personal information to her, particularly in view of her expressed concern about knowing more about the basis for the actions taken in relation to her by school administration following the events of the school concert.

Although the Board may have formed an opinion about the appropriateness of releasing certain information in the records, including the personal information of other individuals, I am aware of no such rationale for withholding the record in its entirety. It was always within the Board's discretion to sever the records and disclose parts of them, even if the records in their entirety had met the requirements of the personal privacy exemption at section 38(b).

Based on the information available to me, I find that the Board did not properly exercise its discretion. I will, therefore, order the Board to re-exercise its discretion in relation to access to those portions of the records remaining at issue, specifically those portions relating to individuals other than the appellant.

Additional Note: Correction of a Record under the *Act*

In her representations, the appellant has suggested that the records at issue, as letters written by teachers, are "official records" of the Board that she seeks to have corrected. It may be helpful to

the appellant to know that an entitlement to request correction of a record under the *Act* presupposes that access to it has been granted in the first place. Section 36(2) of the *Act* provides for a request for correction by an individual to whom *access to their own personal information has been granted* in accordance with section 36(1).

Section 36(2) reads:

> Every individual who is given access under subsection (1) to personal information is entitled to,
>
> > (a) request correction of the personal information if the individual believes there is an error or omission;
> >
> > (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
> >
> > (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement. R.S.O. 1990, c. M.56, s. 36.

In other words, the framework of the *Act* requires that the appellant's entitlement to access her own personal information in the record be established before the question of correction can be raised. Furthermore, the right of correction does not apply to the personal information of other identifiable individuals. I trust that this explanation and my findings under the section dealing with personal information, above, will assist the appellant.

ORDER:

1. I order the Board to disclose to the appellant those portions of the record containing her personal information. For the sake of clarity, I have highlighted the portions of the record the Board is to disclose to the appellant. The information that is not highlighted is *not* to be disclosed. I order the Board to disclose the highlighted portions of the record by **December 20, 2006**, but not earlier than **December 15, 2006**.

2. I order the Board to re-exercise its discretion in accordance with the discussion of that issue above and to advise the appellant and this office of the result of this re-exercise of discretion, in writing. If the Board continues to withhold all or part of the remaining information, I also order it to provide the appellant with an explanation of the basis for exercising its discretion to do so and to provide a copy of that explanation to me.

The Board is required to send the results of its re-exercise, and its explanation to the appellant, with the copy to this office, **no later than January 16, 2007.** If the appellant wishes to respond to the Board's re-exercise of discretion, and/or its explanation for exercising its discretion to withhold information, the appellant must do so within 21 days of the date of the Board's correspondence by providing me with written representations.

3. I remain seized of this matter pending the resolution of the issue outlined in provision 2.

Original Signed by: November 14, 2006
Daphne Loukidelis
Adjudicator