

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4039

Appeal MA20-00311

City of Toronto

April 22, 2021

**Summary:** Pursuant to section 36(2)(a) of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) the appellant requested that the City of Toronto (the city) correct information in her Record of Employment. The city refused to correct the Record of Employment but advised that the appellant could attach a statement of disagreement to it in accordance with section 36(2)(b) of the *Act*. The appellant did not wish to attach a statement of disagreement to her Record of Employment and maintained her position that it should be corrected. In this order, the adjudicator upholds the city's decision and dismisses the appeal.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) "definition of personal information", 36(1), 36(2)(a) and 36(2)(b).

### OVERVIEW:

[1] The City of Toronto (the city) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act* or *MFIPPA*), from the appellant to correct her Record of Employment. The request arose because the appellant disputed the accuracy of the information in the Record of Employment and wished for it to be changed.

[2] The city denied the request but advised the appellant of her right to attach a statement of disagreement under section 36(2)(b) of the *Act*. The appellant did not wish to attach a statement of disagreement to her Record of Employment and maintained her position that it should be corrected.

[3] The appellant appealed the city's decision to deny her correction request.

[4] Mediation did not resolve the appeal and it was moved to the adjudication stage of the appeals process where an adjudicator may conduct an inquiry under the *Act*.

[5] I commenced my inquiry by sending the city a Notice of Inquiry setting out the facts and issues in the appeal. The city provided representations in response. I then sent a Notice of Inquiry to the appellant along with the city's representations. The appellant provided responding representations and asked that they not be shared. Accordingly, I have summarized portions of the appellant's representations in the order that follows.

[6] In this order, I uphold the city's decision not to correct the information at issue in the appellant's Record of Employment.

## **RECORDS:**

[7] The record at issue is a Record of Employment.

## **DISCUSSION:**

### **Does the appellant have a right to request correction of her Record of Employment?**

Section 36(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 36(2)(a) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information under section 36(2)(b). The relevant portions of section 36(2) state:

Every individual who is given access under subsection (1) to personal information is entitled to,

(a) request correction of the personal information where the individual believes there is an error or omission therein;

(b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made  
[.]

### ***The requests for correction do not meet the necessary requirements***

[8] This office has previously established that in order for an institution to grant a request for correction under section 36(2)(a), all three of the following requirements

must be met:

1. the information at issue must be personal information;
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.<sup>1</sup>

[9] In each case, the appropriate method for correcting personal information should be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.<sup>2</sup>

*Requirement 1: information must be personal information*

[10] The right of correction applies only to an appellant's personal information. The term "personal information" is defined in section 2(1) of the *Act*. Personal information includes recorded information about an identifiable individual.

[11] The city acknowledges that the information that the appellant requests to have corrected is her personal information. On my review of the Record of Employment, I find that the information that the appellant seeks to have corrected is her own personal information as set out in section 2(1) of the *Act*.

[12] The first requirement of the test has been met.

*Requirement 2: information must be inexact, incomplete or ambiguous*

[13] With regard to the second requirement, the information to be corrected must be inexact, incomplete or ambiguous. I note that section 36(2)(a) gives the city the discretion to accept or reject a correction request. Therefore, even if the information is "inexact, incomplete or ambiguous", this office may uphold the institution's exercise of discretion to reject a correction request if it is reasonable in the circumstances.

[14] The city submits that during mediation, it consulted with staff in Pension, Payroll and Employee Benefits and they confirmed that the Record of Employment was accurate.

[15] The city explains that a Record of Employment provides information on employment history and that is the record that is used by employees to apply for Employment Insurance benefits. It adds that Service Canada uses the information to

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<sup>1</sup> Orders P-186 and P-382.

<sup>2</sup> Orders P-448, MO-2250 and PO-2549.

determine whether a person is eligible to receive Employment Insurance benefits.

[16] The city submits that it issued the Record of Employment because the appellant started a sick leave of absence with no pay. It explains that no new Record of Employment was issued after the appellant's resignation because she had no additional earnings to be reported.

[17] The city submits that information that the appellant wishes to have corrected is not "inexact, incomplete or ambiguous" as set out in the second requirement of the test for a correction to be granted. The city takes the position that the Record of Employment was accurate at the time that it was produced and no adjustment is needed or required. It adds that it cannot make the correction simply on the basis of the appellant's opinion.

[18] The appellant's submissions with respect to her correction request set out her position that the Record of Employment contains criminal misinformation that is without foundation and does not reflect her side of the events regarding her sick leave and resignation, which she states arose as a result of the improper environment at her workplace. She states that the content of the Record of Employment is adversely impacting her pension entitlement and her ability to work. She adds that she refuses to provide a statement of disagreement on the basis that the Record of Employment is inaccurate and should be corrected itself.

[19] I have reviewed the parties' submissions, the record at issue and have considered the information that the appellant requests to have corrected. I am satisfied that the information in the Record of Employment is based on information in the city's record holdings and reflects its understanding of the circumstances leading to the end of the appellant's employment. Therefore, I accept that the record is based on information in the city's possession and I find that it is not inexact, incomplete or ambiguous.

[20] As noted above, all three requirements of section 36(2)(b) must be met in order to qualify for a correction. As the second requirement for correction has not been met, I do not need to consider the third requirement - whether the requested correction is a substitution of opinion. Accordingly, I find that the corrections requested by the appellant do not satisfy the requirements of the three-part test for granting correction under section 36(2)(a) of the *Act*.

[21] Finally as set out above, it is not necessary for me to consider the addition of a statement of disagreement under section 36(2)(b) because the appellant does not want this to be done.

[22] As a result, I uphold the city's decision to refuse the appellant's request to have her personal information in the Record of Employment corrected.

**ORDER:**

1. I uphold the city's decision to deny the appellant's request for correction of the Record of Employment.
2. I dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Steven Faughnan  
Adjudicator

\_\_\_\_\_ April 22, 2021