



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

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# **INVESTIGATION REPORT**

## **INVESTIGATION I93-043M**

### **BOARD OF EDUCATION**

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## INTRODUCTION

### Background of the Complaint

This investigation was initiated as a result of a complaint concerning a board of education (the Board).

The complainant wrote that she had filed access requests with the Board, pursuant to the provisions of the Municipal Freedom of Information and Protection of Privacy Act (the Act).

She complained that the Board, on receipt of her access requests, had "investigated" her and found out her first name and sex. She complained that the Board had then wrongly disclosed her first name and sex to its law firm. The complainant discovered this disclosure when the law firm wrote her two letters, using her first name and "Ms" which indicated that she was female. The complainant wrote that she had never disclosed her first name or her sex in her access requests.

The Board had previously informed her that its Freedom of Information and Protection of Privacy Co-ordinator (the Co-ordinator) was deceased. However she felt that the Board should have replaced the Co-ordinator, rather than sending her access requests to the Board's law firm for reply.

### Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question "personal information", as defined in section 2(1) of the Act? If yes,
- (B) Did the Board "investigate" the complainant when it collected her personal information?
- (C) Was the disclosure by the Board in accordance with section 32 of the Act?

## RESULTS OF THE INVESTIGATION

**Issue A: Was the information in question "personal information", as defined in section 2(1) of the Act?**

Section 2(1) of the Act states, in part:

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, sex, sexual orientation or marital or family status of the individual,
- ...
- (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; ("renseignements personnels")

The complainant sent us copies of the two letters that she had received from the law firm, concerning her access requests. These two letters had been addressed to her as "Ms" and contained her first name.

In our view, the information contained in these two letters (her first name and her sex) met the requirements in paragraphs (a) and (h) of the definition of personal information in section 2(1) of the Act.

**Conclusion:** The information in question was "personal information" as defined in section 2(1) of the Act.

**Issue B: Did the Board "investigate" the complainant when it collected her personal information?**

The complainant wrote that she had never referred to herself either by her first name or "Ms" in any correspondence with the Board. As a result, she complained that the Board must have investigated her to determine her first name and her sex. The Board denied conducting any investigation as suggested by the complainant.

The Board replied that the complainant had provided her access requests in two envelopes which were addressed to the Director of Education with the notation "Private and Confidential to be opened only by the Director of Education". Neither envelope contained any indication that they contained access requests. However, inside one of the envelopes was a letter dated August 8, 1993 to the Director of Education referring to access requests. This letter was signed by the complainant and contained the complainant's first name in full. The Board advised us that its lawyer had concluded that the name contained in the letter was that of a woman and had addressed the complainant as "Ms". The Board stated that the use of "Ms" was a social courtesy which is standard with correspondence.

The Board provided us with a copy of the letter in question. It is our view that the complainant herself disclosed her first name and sex in her letter to the Board.

**Conclusion:** We found no evidence that the Board had "investigated" the complainant when it collected her personal information.

**Issue C: Was the disclosure by the Board in accordance with section 32 of the Act?**

Under the Act, personal information in the custody or control of an institution cannot be disclosed except in the specific circumstances outlined in section 32.

The Board stated that it had relied on section 32(c) of the Act for this disclosure. Section 32(c) of the Act states:

An institution shall not disclose personal information in its custody or under its control except,

...

(c) for the purpose for which it was obtained or compiled or for a consistent purpose;

...

The Board advised that, at the time of the complainant's access requests, the original Co-ordinator had recently been deceased. The Board had asked the Board's lawyer (at the law firm) to assist the Board in the interim pending the appointment of a replacement. This lawyer had been continually responsible for providing advice to the Board with respect to matters concerning the Act.

At the time the Board received the complainant's access requests, the lawyer was the acting Co-ordinator. The Board therefore provided the complainant's documents to the lawyer to review, provide advice and assist the Board in responding to her access requests.

The complainant also wrote that her personal information (her name) had been disclosed to a [named] law clerk at the same law firm. In the lawyer's reply to the complainant, he told her that he would be away for a certain period of time. During this time, he advised her that she could correspond with the law clerk.

It is our view that the Board disclosed the complainant's personal information to the lawyer for the same purpose for which it had been collected - namely, to respond to the access requests. The lawyer was the Board's acting Co-ordinator at that time, and thus the Board had to disclose the complainant's access requests to him so that he could respond to these requests.

It is also our view that the lawyer disclosed the complainant's name to the law clerk for the same purpose for which the personal information had been collected - namely, to respond to the access requests while the lawyer was absent.

**Conclusion:** The disclosure of the personal information by the Board was in accordance with section 32(c) of the Act.

## SUMMARY OF CONCLUSIONS

- The information in question was "personal information", as defined in section 2(1) of the Act.

- We found no evidence that the Board "investigated" her when it collected her personal information.
- The disclosure of the personal information by the Board was in accordance with section 32(c) of the Act.

Original signed by: \_\_\_\_\_  
Susan Anthistle  
Compliance Review Officer

December 14, 1993  
\_\_\_\_\_  
Date

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