



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

INVESTIGATION REPORT

INVESTIGATION I93-028M

A SEPARATE SCHOOL BOARD



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INTRODUCTION

Background of the Complaint

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

The complainant, a student of the Board, stated that she had left her home because of threatened physical abuse by her mother and stepfather. She first discussed the matter with her school chaplain, who suggested that she talk to her school principal. She asked the principal not to disclose her new address to her mother or stepfather because of fear for her own safety. The complainant stated that the principal reassured her that her new address would not be recorded in her Ontario Student Record (OSR) and would not be disclosed.

The complainant had participated in the Board's co-op program which involved her placement with a law firm. She borrowed some notes from one of the lawyers and later, when she was absent from work, the law firm tried to contact her. A lawyer from the law firm called the school, requesting that she not return to her job placement until the matter of the borrowed notes and her absences had been cleared up at the school level. School staff tried to call the complainant, but her telephone had been disconnected. The principal also made a personal visit to her home, but there was no response.

One of the law firm's lawyers, who was also an acquaintance of the complainant's stepfather, had apparently reported the complainant's progress in school to the stepfather and had told him that she had withdrawn from the co-op program. This information was relayed to the complainant's mother, who then contacted the school, and requested information about her daughter. She was told that her daughter had quit school. Because the mother was so upset at hearing this news and wanted to telephone the police, the teacher who had spoken with the mother requested permission from the principal to release the complainant's address and telephone number. The principal agreed. The complainant stated that she subsequently received threatening phone calls from her mother and stepfather.

The complainant believed that the disclosure of her address and telephone number breached the Municipal Freedom of Information and Protection of Privacy Act (the Act).

Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Were the complainant's address and telephone number her "personal information" as defined in section 2(1) of the Act? If yes,
- (B) Was the complainant's "personal information" disclosed in accordance with section 32 of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Were the complainant's address and telephone number her "personal information" as defined in section 2(1) of the Act?

Section 2(1) of the Act defines "personal information" as recorded information about an identifiable individual, including:

...

- (d) the address, telephone number, fingerprints or blood type of the individual,

...

The complainant stated that she had provided her address and telephone number to the Board when she filled out a form, which she described as a moving/change of address form. In our view, the complainant's address and telephone number met the requirements of paragraph (d) of the definition of "personal information" in section 2(1) of the Act.

Conclusion: The complainant's address and telephone number were her "personal information", as defined in section 2(1) of the Act.

Issue B: Was the complainant's personal information disclosed in accordance with section 32 of the Act?

The Board acknowledged that it had disclosed the complainant's address and home telephone number to the complainant's mother. However, the Board indicated that the only piece of information that the principal agreed to keep in confidence was the telephone number. The Board stated that the principal, vice-principal, and two staff members were aware of the agreement of non-disclosure of the telephone number.

Section 32 of the Act prohibits the disclosure of personal information by an institution, except in the circumstances listed in sections 32(a) through (l). In our view, the section relevant to the disclosure in question is section 32(e), which states:

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

- (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament, an agreement or arrangement under such an Act or a treaty;

The Board stated that it was relying on section 237(3) [now section 266(3)] of the Education Act as the rationale for, and source of authorization, to release the said information.

Section 266 of the Education Act, referring to the OSR, states:

(3) A pupil, and his parent or guardian where the pupil is a minor, is entitled to examine the record of such pupil.

In its letter to us, the Board stated:

A student's address would not be a separate entry on the record [the OSR], but rather a small part of the larger entry and as such the parent would be entitled to view it.

We agree with the Board that a student's address would ordinarily form part of their OSR.

The Board stated that the principal had advised that "it would be unlikely for him to assure any student that an address would not form part of the OSR". The Board was unable to confirm if the information in question had actually been recorded in the complainant's OSR, since it had been subsequently transferred to the complainant's new school.

However, the Board had retained the complainant's Office Index card when it transferred the main OSR to the new school. When we examined the Office Index card, which is part of the OSR, we found that the address in question had been recorded there. However, as of the date of this report, we were unable to confirm whether the telephone number that was disclosed to the mother was also recorded in the OSR. Therefore, the following discussion is limited to the disclosure of the complainant's address. Disclosure of the complainant's telephone number will be discussed under "Other Matters".

We agree that examination of the OSR by parents of students under the age of eighteen is provided for under the Education Act. In this case, the complainant was seventeen years of age. Therefore, the complainant's parents would have been entitled to examine her OSR, in accordance with the above provision of the Education Act.

It is our view that since the complainant's parents had the right to examine her OSR, and the complainant's address was recorded in her OSR, that the disclosure to the complainant's mother was in accordance with section 32(e) of the Act. See "Other Matters" for a discussion of the Board's rationale for disclosure of the address.

Conclusion: The complainant's address was disclosed in accordance with section 32 of the Act.

Other Matters

We wish to draw attention to the following:

Disclosure of the Telephone Number

The Board acknowledged that it had agreed not to disclose the complainant's telephone number. Nonetheless, the Board disclosed this personal information, despite its agreement with the complainant not to do so, and without advising the complainant of its intention. In our view, this disclosure was not in keeping with the spirit of the Act. The Board could have contacted the complainant by letter, or left a message for her at her home, since the Board knew her address.

Board's Rationale for Disclosure of the Address

The Board stated that the reason it disclosed the complainant's address to the mother was that the Board needed assistance in contacting the complainant.

The notes from school staff, provided by the Board, state in part:

Because [the complainant's mother] was so upset at this news (she wanted to phone the police) [the named teacher] requested permission from [the principal] to release address and phone number...

[the complainant] was informed at this time that [the named teacher] had released her address and phone number to her mother who was under duress because of [the complainant's] prolonged, unexplained absence.

From the evidence of the above notes, we conclude that the main reason this information was disclosed was to appease the complainant's mother, who was upset over her daughter's absences from school. Although the Board may have needed to contact the complainant, the Board had the complainant's address, and in our view, could easily have written to the complainant, rather than attempting to contact her through her mother, from whom she was estranged at the time.

Co-op Program Confidentiality

The complainant was concerned that information about her was disclosed by an employee of the law firm where she worked when she was participating in the Board's co-op job placement program. It is our understanding that the Board would disclose students' personal information to the co-op employer and that during the course of a co-op placement, the employer would collect personal information about students that would be shared with the Board. In our view, the Board has an obligation under the Act to protect students' personal information. Therefore, it is our view that the Board, as a party to co-op agreements with various employers, should advise the employers in its co-op program that the Board is an institution under the Act, and that its students' personal information is required to be kept confidential.

SUMMARY OF CONCLUSIONS

- The complainant's address and telephone number were her "personal information", as defined in section 2(1) of the Act.
- The complainant's address was disclosed in accordance with section 32 of the Act.

RECOMMENDATIONS

We recommend that the Board incorporate the following steps into its procedures:

1. that students under the age of eighteen requesting non-disclosure of their OSR information to their parents be advised by the Board of its obligations under the Education Act to allow parents to examine their child's OSR;
2. that the Board's co-op employers be advised that the Board is an institution under the Act, and that student information is required to be kept confidential.

Within six months of receiving this report, the Board should provide the Office of the Information and Privacy Commissioner/Ontario with proof of compliance with the above recommendations.

Original signed by: _____
Ann Cavoukian, Ph.D.
Assistant Commissioner

March 29, 1994

Date