



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

INVESTIGATION REPORT

INVESTIGATION I94-009M

A SEPARATE SCHOOL BOARD

July 20, 1994



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

INTRODUCTION

Background of the Complaint

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

The complainant had made a number of requests for access to information to the Board, under the Municipal Freedom of Information and Protection of Privacy Act (the Act).

The complainant who had a keen interest in the public education system, and the operations of the Board, appeared as a member of a panel discussing the education system in a live television broadcast. A Trustee of the Board was also a panel member. During the televised debate, the Trustee indicated that the Board had expended substantial resources in dealing with the complainant's access requests.

The complainant was concerned that he had been identified by the Trustee as making access requests that drained the resources of the Board. The complainant stated that he might run as a candidate in a forthcoming municipal election and was concerned that he would be perceived as a trouble maker by the voting public.

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) Was the personal information disclosed in accordance with section 32 of the Act?

RESULTS OF THE INVESTIGATION

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

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

recorded information about an identifiable individual, including,

- (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 complainant provided us with a video tape of the televised debate. During the discussion, the Trustee referred to the complainant by name, stating that many thousands of dollars and much staff time had been spent in dealing with his access requests.

The Board had records on file relating to the complainant's access requests and containing information about the cost and time spent to process his complainants. It is, therefore, our view that the information in question met the definition of paragraph (h) of the definition of "personal information" in section 2(1) of the Act.

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

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

Under the Act, an institution cannot disclose personal information in its custody or under its control except in the circumstances outlined in section 32.

Section 32(b) of the Act states that:

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

- (b) if the person to whom the information relates has identified that information in particular and consented to its disclosure;

The Board stated that it had relied on section 32(b) for its disclosure. The complainant had informed the media that he had obtained certain information about the Board through access requests he had made to the Board. Several newspaper articles had mentioned this. The complainant had also made representations to the legislature which had been recorded in "Hansard". In addition, the complainant had also made a public presentation to the Board in which he had disclosed information about his requests. The Board held that the Trustee had, therefore, disclosed information that was in the public domain, and that the complainant had clearly wished members of the public to know that he had been able to obtain records from the Board through access requests under the Act.

We have examined the relevant newspaper articles, the relevant parts of "Hansard" and a copy of the complainant's presentation to the Board. However, it is our view that the information that the complainant had himself disclosed to the media and to others was not the specific information that had been disclosed by the Trustee during the television broadcast. It is our view, that the complainant did not identify the personal information disclosed by the Trustee "in particular" nor did he consent to its disclosure. Therefore, the Board's disclosure of the complainant's personal information was not in accordance with section 32(b) of the Act.

We have also examined the other provisions of section 32 and are of the view that none were applicable to the Board's disclosure of the complainant's personal information.

Conclusion: The complainant's personal information was not disclosed in accordance with section 32 of the Act

SUMMARY OF CONCLUSIONS

- The information in question was "personal information" as defined in section 2(1) of the Act.
- The complainant's personal information was not disclosed in accordance with section 32 of the Act

RECOMMENDATION

During the course of this investigation, the Board informed us that they were preparing a memorandum providing guidance on the appropriate disclosures of personal information relating to access requests under the Act, which they proposed to send to all trustees and senior staff.

It is our view that the issuance of this memorandum is an appropriate step to take to ensure compliance with the Act. We, therefore, recommend that the Board implement this step but to include in the memorandum's distribution not only trustees and senior staff but any other employee who may be involved in the processing of an access request.

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

Original signed by: _____
Susan Anthistle
Compliance Review Officer

July 20, 1994 _____
Date
