



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

INVESTIGATION REPORT

INVESTIGATION I94-070M

A BOARD OF EDUCATION

March 16, 1995



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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 grade nine class attended by the complainant's child had been assigned a project entitled "Connections Portfolio" (the Project). To complete the Project, students were required to disclose personal information relating to their ancestry, race, and country of origin and that of their family members.

When the complainant made his concerns about the Project known to the Board, the Board advised him that his child could complete an alternative project, which would not contain any personal information. However, the complainant rejected this option as he felt his child might be singled out, or risk harassment from other students if his child did not complete the same project as the other students. The complainant stated that he had advised his child to make up false information in order to complete the Project without disclosing personal information.

The complainant stated that the Board's collection of the personal information requested in the Project demonstrated a lack of sensitivity to ethnic and civil liberties issues, and was a violation of the privacy rights protected by 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) Was the information requested for the Project "personal information" as defined in section 2(1) of the Act? If yes,
- (B) Was the personal information collected in compliance with section 28(2) of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Was the information requested for the Project "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,

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

We reviewed a copy of the Project outline. The requested information for the Project included information about the student's and his or her family's ancestry, place of birth, immigration, and country of origin. In our view, this information was information that met the requirements of paragraph (a) of the definition of "personal information" in section 2(1) of the Act.

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

Issue B: Was the personal information collected in compliance with section 28(2) of the Act?

Section 28(2) of the Act states that:

No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or **necessary to the proper administration of a lawfully authorized activity**. (emphasis added).

The Board provided us with copies of the common curriculum and the Project outline. The Board stated that the Project was developed for the Self and Society program area. The common curriculum describes the Self and Society program area as a combination of several traditional areas of study, including business studies, family studies, geography, guidance, history, and physical and health education. A central goal of the program area is to help students understand their society and their possible roles in it. In addition, as students learn about other societies, they come to understand and respect the differences between people. Students investigate various social, political, economic, and environmental systems, and the ways in which human beings depend on each other.

The common curriculum further states that in the process, students come to understand their own heritage by studying their own historical, cultural, and linguistic background and that the study of other cultures helps them value the contributions that diverse groups have made to Canada and the world.

Therefore, the Board submitted that the Project was designed not only to teach traditional subjects, but to promote multi-culturalism and a sense of self-worth. The Board further stated that it recognized that the program dealt with sensitive issues and as a result, it had offered alternative assignments for students.

The Board submitted, however, that in its view, the Act did not apply in the circumstances of this case, partly because the Project was not an assignment from the Board but from a specific teacher who returned the assignments to students once they had been assessed and marked. In our view, teachers are employees of the Board who assign projects and collect and use students' personal information on these assignments on behalf of the Board. Therefore, the Act was applicable.

The Board submitted that if the Act did apply, then its collection of personal information for the Project was in compliance with section 28(2) of the Act, i.e. necessary to the proper administration of a lawfully authorized activity.

The Board referred us to the Education Act, which allows it to design and teach courses of study such as the Project, under the mandate of the Ministry of Education and Training (MET). The Project was based on MET guidelines as an integrated unit for all grade 9 students.

The Board referred us to the following provisions of the Education Act:

Section 8(1), paragraph 2:

The Minister may:

prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions;

Section 171(1), paragraph 8 gives further authority for a board to:

provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study;

In our view, the following provision of the Education Act also applies:

Section 170, paragraph 6:

Every board shall:

provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board.

In our view, the above provisions of the Education Act set out the Board's authority to provide instruction in courses of study for students that are developed from the common curriculum guidelines issued by the Minister.

The complainant disagreed that the Board acted in accordance with the guidelines set out by the MET. He contended that the MET had not set guidelines for the incorporation of multiculturalism into the curriculum. It is our view, however, that since the guidelines do not sanction actual course content, the Board had not contravened the MET guidelines by assigning a multicultural component to the Project.

Thus, it is our view that in this case, the Board's assignment of projects, as part of providing instruction in a course of study for students, was a lawfully authorized activity. Further, it is our view that the personal information requested for the Project was necessary in order to properly administer the Project, i.e. for the assignment to be completed and students evaluated. Therefore, the Board's collection of personal information was necessary to the proper administration of a lawfully authorized activity, in accordance with section 28(2) of the Act.

Conclusion: The Board's collection of personal information for the Project was in compliance with section 28(2) of the Act

SUMMARY OF CONCLUSIONS

- The information requested for the Project was personal information as defined in section 2(1) of the Act.
- The Board's collection of personal information for the Project was in compliance with section 28(2) of the Act.

Original Signed by:
Ann Cavoukian, Ph.D.
Assistant Commissioner

March 16, 1995
Date
