



Information and Privacy  
Commissioner/Ontario

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

# **ORDER M-108**

**Appeal M-9200069**

**Norfolk Board of Education**

# ORDER

## BACKGROUND:

The Norfolk Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for the following records:

The "supportive documentation" for the following items on the agenda for the Board Organization and Finance Committee - Wednesday, February 19, 1992:

Item	Documentation
#1	Accounts
#2	1992 Budget Development
#7	Conferences
#8	Presentations for 1992 Budget Development A [through] F)
#9	Assessment update
#10	Sponsorship Forum for Young Canadians
#11	Follow-up on TC-N
#13	Items for future meetings

The Board responded by denying access to item 1 pursuant to sections 11(c) and (d) and 14(1) of the Act, and item 2 pursuant to section 6(1)(b) of the Act. The Board also informed the requester that no records exist which respond to the remaining items in the request. The requester appealed the Board's decision to deny access to items 1 and 2, and maintained that records should exist which are responsive to item 7.

During the course of mediation, the Board reconsidered its position and provided the appellant with access to a one-page document titled "Summary of Disbursements - February 3, 1992 to February 14, 1992" (item 1); partial access to a nine-page "accounts list", which consists of a list of cheques issued by the Board during the same time period, with the names of the payees severed (item 1); and a six-page document titled "Action Plans for 1992 Budget Development With Continuing Focus On The Board's Statement Of Purpose" (item 2). The Board maintained its position that no records responsive to item 7 exist, and advised the appellant that a list of conferences had been prepared for the members of the Board for consideration at its February 19, 1992 meeting but no copies were retained by the Board following the meeting.

Further mediation was not successful, and the matter proceeded to inquiry. On agreement of both parties, the written representations submitted by the Board and the appellant in another appeal involving the same parties and a similar record were considered in the context of the record at issue in this appeal.

At the inquiry stage of the appeal, the Board raised section 6(1)(b) of the Act as a new exemption claim

with respect to the "accounts exist". Written representations were received from the Board and the appellant on this issue. However, the Board subsequently withdrew this exemption claim, as well as its exemption claims under sections 11(c) and (d). The only exemption claim which remains at issue in this appeal is section 14(1), and it is restricted to the names of individuals which appear in the "accounts list".

The individuals whose names appear in the record (the affected persons) were notified of the inquiry and provided with an opportunity to make representations in one of two ways. First, in co-operation with the Board, this office arranged to have a Notice of Inquiry placed in the pay envelopes of all affected persons who are employees of the Board (a copy of this notice is attached as Appendix A to this order). Second, this remaining affected persons who are not Board employees were sent an individual Notice of Inquiry by this office.

Eleven affected persons responded to the Notice of Inquiry, none of whom objected to the release of their names.

### **PRELIMINARY MATTER:**

In her representations, the appellant challenges the authority of the decision-maker. Specifically, she submits that the decision-maker did not hold the proper delegated authority pursuant to section 49(1) of the Act.

The Board provided a copy of the delegation of authority to this office. I have reviewed this delegation and I am satisfied that it is valid and proper.

### **ISSUES:**

The sole remaining issue in this appeal is whether the mandatory exemption provided by section 14(1) of the Act applies to the names of the affected persons which appear in the record.

In order to qualify for exemption pursuant to section 14(1), the information must first satisfy the requirements of the definition of personal information contained in section 2(1) of the Act.

Section 2(1) states, in part:

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

The portions of the record which remain at issue in this appeal are the names of the affected persons who received cheques from the Board and appear on the "accounts list". Most of these individuals are Board employees and co-op students, and the cheques represent reimbursements for expenses incurred by these individuals in their employment capacity. The remaining names on the list are those of individuals who provided services to the Board on a fee-for-service basis, and the cheques represent payments made to

these individuals during the period covered by the "accounts list".

It has been established in a number of previous orders that information provided by an individual in a professional capacity or in the execution of employment responsibilities is not "personal information"(Orders M-71, M-74, P-326, P-328, P-329, P-329, P-333 and P-377). In my view, similar considerations apply in this appeal, and I find that information about payments made to reimburse individuals for expenses incurred during the course of carrying out their duties as public employees and co-op students does not qualify as personal information for the purposes of the Act. Similarly, I find that information about payments made to individuals who have provided services to the Board on a fee-for-service basis does not qualify as personal information of these individuals for the purposes of the Act.

Because I have found that the record does not contain any personal information, it is not necessary for me to consider the possible application of section 14(1) of the Act.

### **ORDER:**

1. I order the Board to disclose the record in its entirety to the appellant within 35 days following the date of this order and **not** earlier than the thirtieth (30th) day following the date of this order.
2. In order to verify compliance with the provisions of this order, I order the Board to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, only upon my request.

Original signed by: \_\_\_\_\_  
Tom Mitchinson  
Assistant Commissioner

\_\_\_\_\_ March 25, 1993

### **APPENDIX A**

### **NOTICE**

UNDER THE MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF  
PRIVACY ACT

The Office of the Information and Privacy Commissioner/Ontario has received three appeals concerning refusals by the Norfolk Board of Education to release a copy of the Board's accounts summaries for the time period February 3 to 28, 1992.

The accounts summary is a record that lists cheques issued by the Board to cover expenses, including reimbursement of employees for travel and related expenses.

You are being notified of these appeals because your name appears in the Board's accounts summaries at issue in these appeals.

The Information and Privacy Commissioner is presently considering whether or not the Norfolk Board of Education should be ordered to release the requested information, pursuant to the Municipal Freedom of Information and Protection of Privacy Act.

Therefore, you are invited to contact the Office of the Information and Privacy Commissioner to obtain further details about the appeals and your right to make representations to the Commissioner.

These inquiries may be made in writing or by phone to:

The Office of the Information and Privacy Commissioner/Ontario  
80 Bloor Street West  
Suite 1700, Toronto, Ontario M5S 2V1

Telephone (416) 326-3932  
Toll Free 1-800-387-0083

Your call or letter should be received by the Office no later than Monday, March 3, 1993 and should be directed to Gerald Fahey, Appeals Officer. Please refer to appeal #M-9200140.