



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

## **ORDER M-99**

**Appeal M-9200349**

**The Cochrane, Iroquois Falls, Black River-Matheson  
District Roman Catholic Separate School Board**



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# ORDER

## BACKGROUND:

The Cochrane, Iroquois Falls, Black River-Matheson District Roman Catholic Separate School Board (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the qualifications of a named individual who had been hired by the Board for the position of teacher's aide (the affected person). The requesters were the parents of a student at the Board.

In the process of considering the request, the Board notified the affected person of the receipt of the request and sought her consent for the release of the requested information. The affected person declined to give consent. The Board then responded to the requesters by denying access to the requested information pursuant to section 14 of the Act. The requesters appealed the Board's decision.

During mediation, the scope of the appeal was clarified and it was agreed that the record that would be responsive to the request consists of a letter of application and the resume of the affected person.

Further mediation was not successful and notice that an inquiry was being conducted to review the Board's decision was sent to the appellants, the Board, and the affected person. Written representations were received from all parties.

## ISSUES:

- A. Whether the record contains personal information as defined by section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies to the record.

## SUBMISSIONS/CONCLUSIONS:

**ISSUE A: Whether the record contains personal information as defined by 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,

...

- (b) **information relating to the education** or the medical, psychiatric, psychological, criminal or **employment history** of the individual or information relating to financial transactions in which the individual has been involved, [emphasis added]

The record contains information relating to the education and employment history of the affected person. In my view, this information clearly falls within the definition of personal information as set out in paragraph (b) of the definition of personal information and relates solely to the affected person.

**ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies to the record.**

Under Issue A, I found that the record contains the personal information of the affected person.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this personal information, except in certain circumstances. Specifically, section 14(1)(f) of the Act reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy. Section 14(2) provides a non-exhaustive list of criteria for the head to consider in making this determination, and section 14(3) identifies the types of personal information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy.

Section 14(3)(d) of the Act states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,  
  
relates to employment or educational history;

Having reviewed the record, I am of the view that the personal information in the application and resume relates to the affected person's employment and educational history. Accordingly, the requirements for a presumed unjustified invasion of personal privacy under section 14(3)(d) have been established.

Having determined that the presumption of an unjustified invasion of personal privacy has been established under section 14(3)(d), I must now consider whether any other provisions of the Act come into play to rebut this presumption.

Section 14(4) outlines a number of circumstances which, if they exist, could operate to rebut a presumption under section 14(3). In my view, the record does not contain any information relevant to section 14(4).

I note that sections 14(2) and (3) of the Act are similar in wording to sections 21(2) and (3) of the provincial Freedom of Information and Protection of Privacy Act. Orders concerning those parts of section 21 issued under the provincial Act may therefore provide guidance in interpreting and applying the corresponding parts of section 14 of the municipal Act.

In Order 20, former Commissioner Sidney B. Linden stated that "... a combination of the circumstances set out in subsection 21(2) might be so compelling as to outweigh a presumption under subsection 21(3). However, in my view, such a case would be extremely unusual."

The appellants, in their submissions state that they are the parents of a child who has special educational needs. Their reason for requesting access to the qualifications of the affected person was to determine whether that individual who would be working with their child was qualified or not.

Even if I were prepared to accept that the appellants' concern qualifies as an unlisted factor under section 14(2), this factor alone is not sufficient to outweigh the presumption of unjustified invasion of personal privacy contained in section 14(3)(b).

Having carefully considered all of the circumstances of this appeal, I find that the presumption of an unjustified invasion of the personal privacy of the affected person has

not been rebutted. Accordingly, I find that the disclosure of the record would constitute an unjustified invasion of the privacy of the affected person.

**ORDER:**

I uphold the Board's decision.

Original signed by: \_\_\_\_\_  
Asfaw Seife  
Inquiry Officer

\_\_\_\_\_ March 10, 1993