



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-163

Appeal M-9300100

Halton Board of Education



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ORDER

BACKGROUND:

The Halton Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to "...examine [the originals] and receive a hard copy of the attendance records at the ACT (Adult Computer Training) facility at the Appleview Mall, for the years January 1991 to January 1993." The Board responded that access to copies of the records requested would be granted with the personal information of other individuals removed pursuant to section 14 of the Act. The Board provided a fee estimate of \$465.40 for computer and manual search time, and for the preparation and photocopying of the records. The requester appealed the decision.

During mediation, the appellant withdrew her objection to the non-disclosure of personal information made under section 14 of the Act, but continued her appeal of the fee estimate, claiming that the search time for both the manual and computer search was excessive. The Board then revised its earlier estimate to \$251.00, showing the allocation of time and the resulting costs for manual and computer searches, photocopying, severing and photocopying of the severed records. The appellant claimed that this amount was still excessive. She did not pursue her request to examine the originals of the records.

Further mediation was not possible and notice that an inquiry was being conducted to review the Board's decision was sent to the Board and the appellant. Written representations were received from the Board only.

The sole issue in this appeal is whether the amount of the estimated fees was calculated in accordance with section 45(1) of the Act.

Sections 45(1) and 45(6) of the Act read as follows:

If no provision is made for a charge or fee under any other Act, a head shall require the person who makes a request for access to a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
 - (b) the costs of preparing the record for disclosure;
 - (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
 - (d) shipping costs.
- ...
- (6) The costs provided in this section shall be paid and distributed in the manner prescribed by the regulations.

Section 6(1) of Regulation 823 under the Act, states, in part:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act:

1. For photocopies and computer printouts, 20 cents per page.
- ...
3. For manually searching for a record after two hours have been spent searching, \$7.50 for each fifteen minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each fifteen minutes spent by any person.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each fifteen minutes spent by any person.
6. For any costs, including computer costs, incurred by the institution in locating, retrieving, processing and copying the record if those costs are specified in an invoice received by the institution.

The Board indicates that the request involves both a manual and a computer search for the responsive records. The Board's representations include a sworn affidavit from the Manager of Operations, Adult & Continuing Education, confirming that she supervised the search which formed the basis for the estimate given by the Board.

In order to understand how the Board calculated its fee estimate and consider which portions of the charges are appropriate, I believe it is helpful to summarize the estimate as described by the Board:

STEP 1:

Manual Searching

- (a) No charge for locating the 123 - 1991 attendance sheets in the binder.

[IPC Order M-163/July 16, 1993]

Estimated search time of one hour to locate additional attendance sheets in company, work placement, and possibly other files.

Estimated Time 1.00 hour

- (b) Estimated time to modify the computer database for the 1992 and 1993 attendance records to exclude personal information.

Estimated time 3.25 hours

STEP 2:

Photocopying to Prepare Records

Photocopy a minimum of 123 sheets from Step 1(a) @ 15 seconds

Minimum Estimated time 0.50 hours

STEP 3:

Severing

Sever personal information from all sheets in Step 1(a)

Minimum 123 @ 1 minute

Estimated time 2.00 hours

This would be increased by the number of sheets found outside the binder.

STEP 4:

Copying

Photocopy all severed sheets from Step 3

Minimum 123 @ 15 seconds

Estimated time 0.50 hours

TOTAL ESTIMATED TIME 7.25 hours

Manual Searching

First two hours

No charge

Each additional hour @ \$30.00 per hour

[IPC Order M-163/July 16, 1993]

per person: estimated 2.25 hours	\$67.50
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Preparation

Severing of personal information @ \$30.00 per hour per person: estimated 3.0 hours	\$90.00
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Copies of Records

To prepare records for severing: minimum of 123 sheets @ \$0.20	\$24.60
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Copies of all records: minimum of 346 sheets @ \$0.20	\$69.20
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MINIMUM TOTAL ESTIMATED COST	\$251.30
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In reviewing the Ministry's fee estimate, my responsibility under subsection 45(5) of the Act is to ensure that the amount estimated by the institution is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Board (Order 86). In my view, the Board discharges its burden by providing me with detailed information as to how the fee estimate has been calculated, and by producing sufficient evidence to support its claim.

I will now examine each of the steps taken by the Board in its calculation of the estimate to ascertain the reasonableness of the fee.

SEARCH CHARGE:

In its explanation of Step 1(a), the Board states that the records for 1991 have not been computerized and are maintained in binders and files. With respect to the manual search, the Board indicates that one binder with 123 attendance sheets is easily accessible and therefore, no search time has been charged to locate these records.

The Board states that there are records located in other locations such as company files and work placement files. The Board has estimated that it will take one hour to locate these records - it has not yet done so and has no estimate of the number of records which might be found.

In my view, the evidence provided by the Board in support of this one-hour search time is not sufficient to substantiate this claim. The Board's representations contain no explanation regarding where the search will

be held, the volume of the records or other factors which would enable me to determine if this portion of the fee is in accordance with the provisions of section 45(1)(a). Accordingly, I disallow any charges for this search time.

In my opinion, the procedures outlined by the Board in Step 1(b) properly fall within paragraph 5 of the Regulations. The Board has indicated that it must develop a special computer program in order to produce the record in a form to be disclosed to the appellant. The Board apparently calculated these computer costs in the same manner as the manual search time. This calculation is of financial benefit to the appellant as, pursuant to the regulations, manual search time is chargeable at a lower rate.

The time for the computerized search includes the time required to modify the data base in order to produce severed copies of the records on computer. The Board points out that the alternative is manually severing and then photocopying the printed records which is more time consuming. The time estimated for this process is 3.25 hours. Based on the affidavit and the representations submitted, I am satisfied that the charges for this search time are appropriate.

PREPARATION CHARGES:

In its calculations under Steps 2 and 4, the Board estimated that it would take one hour in total to photocopy the relevant records. It included this time in its Total Estimate at a charge of \$30.00 per hour. The Board also included photocopying charges of \$0.20 per page in the Total Estimate.

Twenty cents per page is the maximum amount that may be charged for photocopying and this includes the cost of an individual "feeding the machine" (Orders 184, P-260 and P-490). Accordingly, the Board may not include the time to actually photocopy the records within the calculation of preparation time.

I find that the Board's charges of one minute per page to sever the records is appropriate. This amounts to a preparation fee of \$0.50 per page. I would also permit the Board to charge this amount for each page of the record located "outside the binder" which must be severed prior to being disclosed to the appellant.

PHOTOCOPYING:

In the Total Estimate, the Board has charged for the photocopying of a total of 469 pages which I believe includes both the hard copy and computerized records. Included in this is a charge of \$24.60 for the copying of 123 sheets at \$0.20 per page "to prepare the records for severing". The Board has claimed an additional charge of \$0.20 per page for these same 123 sheets in its calculations of the charges for "copies of all records".

As I have indicated above, \$0.20 per page is the maximum that the Board may claim for photocopying charges. The Board has calculated photocopying costs at \$93.80 in total. If the appellant is going to receive 346 pages, this means the Board is charging approximately \$0.27 per page, or \$0.07 above the rate

allowed under the Regulations. Accordingly, I will allow a fee of \$0.20 for each page **provided** to the appellant. This fee will also apply to each page located "outside the binder".

In summary, I find that the fees chargeable in this appeal are as follows:

Search time - 3.25 hours minus 2 hours = 1.25 hours @ \$30.00 per hour	\$37.50
Preparing the record for disclosure (severing the personal information) 123 pages at 1 minute per page = 123 minutes approximately 2 hours @ \$30.00 per hour	\$60.00
Photocopying charges - 123 hard copy sheets and 223 sheets of computer printouts = 346 pages @ \$0.20 per page	\$69.20
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TOTAL	\$166.70

ORDER:

1. I allow the Board to charge \$166.70 for search fees, and photocopying and preparation costs.
2. I allow the Board to charge the following amounts with respect to any additional responsive records it locates "outside the binder":
 - (a) \$0.50 preparation costs for each page of the record disclosed to the appellant that contains a severance; and
 - (b) photocopying costs at a rate of \$0.20 per page for each page of the record that is provided to the appellant whether or not the page contains a severance.

Original signed by: _____ July 16, 1993
Anita Fineberg
Inquiry Officer