



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-262

**Appeals M-9300371, M-9300379, M-9300380, M-9300382,
M-9300383, M-9300384 and M-9300405**

**Metropolitan Separate School Board
[Toronto]**



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ORDER

The Metropolitan Separate School Board (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for a copy of the expense account sheets, including attachments and receipts, and the credit card statements for seven named employees of the Board, covering various specified time periods.

In response to six of the requests, the Board notified the requester that it was extending the time limit for responding to his requests by 17 days pursuant to section 20 of the Act. The requester did not appeal these decisions.

The requester appealed the Board's failure to respond to his seventh request within the 30 day time limit specified in section 22(4) of the Act. During mediation of this appeal, the Board located records responsive to the request and issued its decision.

The Board denied the requester access to all of the records responsive to his requests pursuant to section 14 of the Act. The requester appealed the denial of access.

Further mediation was not successful and notice that an inquiry was being conducted to review the Board's decision was sent to the Board and the appellant. Representations were received from both parties.

The records consist of the computer print-outs, bills and receipts of the named employees of the Board. The appellant states that he is only pursuing access to expenses incurred while the individuals were engaged in Board activity for which claims were later made. He is not seeking access to the actual credit card numbers. Consequently, the credit card numbers are not at issue.

The Board indicates that the records at issue are extensive and would be expensive to produce. Accordingly, the Board has provided me with a sample of records which it states is representative of all of the records at issue in these appeals. Accordingly, the decision I make with respect to the sample will apply to all of the records at issue.

The Board submits in its representations that sections 11(c) and (d) of the Act "might" apply to some of the information contained in the records. These sections are discretionary exemptions. The Board did not cite these sections in its decision letter to the appellant as the basis for exempting any of the records and has only raised these sections in its representations by stating that the sections "might" apply. Consequently, it is my view that these sections are not at issue in these appeals, and they will not be addressed in this order.

The sole remaining issue in these appeals is whether the mandatory exemption provided by section 14 of the Act applies to the records.

Where a request involves access to personal information I must, before deciding whether an exemption applies, ensure that the information in question falls within the definition of "personal information" in section 2(1) of the Act.

Section 2(1) 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,

...

- (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;

Specifically, the Board claims that the information contained in the records satisfies the introductory wording and subparagraph (b) of the definition of personal information.

The Board claims that the records contain information relating to the personal employment contracts of the named employees with the Board "which provides for full and unconditional use of an automobile and all expenses with it". The Board goes on to state that "the use of the credit card to pay for automobile related expenses may be for business and/or personal use. There is no limitation that it be for business use only".

I have carefully reviewed the sample records provided to me and, although the Board submits that the records "may" contain information relating to "personal" financial transactions, the Board has failed to point out where this "personal information" appears. I have not been provided with any information to satisfy me that any of the information contained in the records relates to "personal" expenses. Therefore, it is my opinion that the records at issue in these appeals relate to expenses incurred by employees of the Board in their employment capacity.

It has been established in a number of previous orders that information provided by, or relating to, an individual in a professional capacity or in the execution of employment responsibilities is not "personal information" (Orders M-71, M-74, M-106, M-107, M-108, P-326, P-328, P-329, P-333 and P-377). In my view, similar considerations apply in these appeals, and I find that information about costs incurred and credit card charges made by the named employees during the course of their employment as public employees does not qualify as personal information for the purposes of the Act.

Because I have found that the records do not contain any personal information, it is not necessary for me to
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consider the application of section 14 of the Act.

ORDER:

1. I order the Board to disclose the records to the appellant, with the exception of the actual credit card numbers, within 20 days of 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 records which are disclosed to the appellant pursuant to Provision 1, **only** upon request.

POSTSCRIPT:

In two of these appeals, the subject of the request was also the person who made the decision to deny access to the records. While there may not have been an actual conflict of interest present in these particular appeals, in my view, I recommend that a delegation of the head's powers under the Act contemplate the possibility of conflict of interest scenarios, whether real or perceived, and provide for alternate decision-makers in those instances.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ February 7, 1994