



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-814

Appeal P-9400124

Ministry of Education and Training



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested a copy of a report from the Ministry of Education and Training (the Ministry) regarding a named organization. This report was prepared in the context of an inquiry into conflict of interest allegations made against individuals in the Literacy Branch of the Ministry.

The record is a 14-page report prepared by the Ministry's Internal Audit Branch, dated June 1993 and entitled "Special Investigation on Conflict of Interest Allegations". The report contains a summary of the audit results, background information, a chronicle of events and an in-depth discussion of the results of the investigation into the allegations.

The Ministry relies on the following exemptions to withhold the report:

- third party information - section 17
- invasion of privacy - section 21
- danger to safety or health - section 20

A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received from the Ministry only.

## **DISCUSSION:**

For the purposes of this appeal, I will deal with the invasion of privacy exemption first.

### **INVASION OF PRIVACY**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including the individual's name where 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.

I have reviewed the information contained in the report. None of the personal information contained in the record relates to the appellant. I find that most of its contents consist of recorded information about the individuals who were the subject of the inquiry, and therefore constitutes their personal information. The record contains some information which pertains to other identifiable individuals, and constitutes their personal information. Most of the individuals identified in the report are or were employees of the Ministry.

Previous orders have held that information about an employee does not constitute that individual's personal information where the information relates to the individual's employment responsibilities or position. Where, however, the information involves an evaluation of the employee's performance or an investigation into his or her conduct, these references are considered to be the individual's personal information.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances.

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the institution must consider the application of the factors listed in section 21(2) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

In its representations, the Ministry submits that the following presumptions apply to all or portions of the record:

- investigation into a possible violation of law - section 21(3)(b)
- employment history - section 21(3)(d)
- finances and income - section 21(3)(f)
- personnel evaluations - section 21(3)(g)
- religious or political associations - section 21(3)(h).

The Ministry further states that there are several factors under section 21(2) which favour non-disclosure of the information in the record. It states that:

- the information is highly sensitive - section 21(2)(f)
- the information has been supplied in confidence - section 21(2)(h).

In his letter of appeal, the appellant indicates that he believes the report will reveal not only irregularities within the Literacy Branch, but in some cases, fraudulent activities. He states that it is in the public interest to disclose the report in order to expose the illegal actions of Literacy Branch employees. He also indicates that the individual accused of conflict of interest was reinstated in his position. Although he does not specify a particular section of the Act, the appellant has raised the possible application of sections 21(2)(a) and 23 of the Act.

As I noted above, however, the appellant did not submit representations in this appeal. In my view, the reasons he provided for initiating this appeal do not provide sufficient information for me to conclude that any of the factors which favour disclosure of the personal information apply in the circumstances of this appeal.

Nor am I satisfied that there exists a compelling public interest in disclosure of the personal information in the record which clearly outweighs the purpose of the section 21 exemption. Accordingly, section 23 of the Act does not apply in this appeal.

In the absence of any factors favouring disclosure, therefore, I find that the mandatory exemption provided by section 21(1) of the Act applies to the personal information contained in the report.

Because I have found the record to be entirely exempt under section 21(1), it is not necessary for me to consider the other exemptions raised in this appeal.

**ORDER:**

I uphold the Ministry's decision.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ December 9, 1994