



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-490

Appeal M-9400510

Peterborough County Board of Education



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Peterborough County Board of Education (the Board) for information relating to the conditions under which the Board would assist an expelled student to access alternative education during his absence, and expected or incurred costs for provision of this assistance.

The Board denied access to information responsive to the request based on the following exemptions contained in the Act:

- closed meetings - section 6(1)(b)
- invasion of privacy - section 14

The requester appealed the Board's decision.

During mediation of the appeal, the Board indicated that no records exist pertaining to the costs for providing assistance to the expelled student. The appellant did not pursue his appeal of this aspect of the decision. Accordingly, the only information at issue in this appeal are portions of the minutes of a Board meeting and a letter to the parents of the expelled student which describe the conditions under which assistance will be provided.

A Notice of Inquiry was provided to the Board, the appellant, and the parents of the expelled student. Representations were received from the Board only.

DISCUSSION:

CLOSED MEETINGS

In order for the Board to apply section 6(1)(b) of the Act, it must establish that:

1. a meeting of a board or one of its committees took place; **and**
2. a statute authorizes the holding of this meeting in the absence of the public; **and**
3. disclosure of the record at issue would reveal the actual substance of the deliberations of this meeting.

It is clear from the minutes that a meeting of the Committee of the Whole Board (the Committee) took place. On this basis, the first part of the section 6(1)(b) test has been satisfied.

The minutes also make it clear that this meeting was held in the absence of the public. The Board submits that section 207(2)(b) of the Education Act is the authority to hold the meeting behind closed doors. This provision states, in part, that:

A meeting of a committee of a board, including a committee of the whole board, may be
[IPC Order M-490/March 17,1995]

closed to the public when the subject-matter under consideration involves ... the disclosure of intimate, personal or financial information in respect of a pupil or his or her parent or guardian ...

Based on the evidence before me, I am satisfied that the matters discussed during the meeting fall within the ambit of section 207(2)(b) of the Education Act. Accordingly, I find that the second part of the section 6(1)(b) test has been met.

In Orders M-184 and M-196, Assistant Commissioner Irwin Glasberg defined the term "substance" as the "theme or subject of a thing" and the word "deliberations" to mean "discussions conducted with a view towards making a decision".

Having reviewed the Board's representations and the records, I find that the "theme or subject" of the Committee's in camera meeting was how the Board should deal with the misbehaviour of a student in one of its schools. I also find that the Committee discussed the circumstances of this particular issue with a view towards deciding how the matter should be resolved. On this basis, I have concluded that the disclosure of the portions of the minutes and the letter to the expelled student's parents which are at issue in this appeal would reveal the actual substance of the discussions conducted by the Board and, hence, its deliberations. The third part of the section 6(1)(b) test has, therefore, also been met. Accordingly, section 6(1)(b) applies.

Since I have found that these two records are properly exempt from disclosure under section 6(1)(b) of the Act, it is not necessary for me to determine whether section 14 applies.

ORDER:

I uphold the Board's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ March 17, 1995