



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

# **ORDER M-639**

**Appeal M\_9500359**

**Carleton Roman Catholic School Board**



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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 made a three-part request to the Carleton Roman Catholic School Board (the Board). All three parts of the request relate to the appellant's daughter who is over the age of sixteen. Part 1 of the request was for staff reports mentioned at a May 1995 meeting which the appellant attended. Part 2 of the request relates to staff reports written by individual teachers and a principal and Part 3 of the request was for minutes of the Identification, Review and Placement Committee meeting and the end of term report card.

The Board provided the appellant with the records which responded to Part 3 of the request. The Board informed the appellant that the records responsive to Part 2 of her request make up part of her daughter's Ontario Student Record which is available from the daughter's present school. The Board denied access to information responsive to Part 1 of the request based on the following exemption contained in the Act:

- closed meetings - section 6(1)(b)

The requester appealed the Board's decision. After reviewing the record at issue, the Appeals Officer determined that the following mandatory exemption may also apply to the record:

- invasion of privacy - section 14

Mediation was not possible. A Notice of Inquiry was provided to the appellant, the appellant's child and the Board. Representations were received from the appellant and the Board. The representations of the appellant included a consent to disclosure of information signed by her daughter.

In its representations, the Board raised the application of section 38(a). The Board does not state whether it is claiming this exemption for the personal information of the appellant or her daughter or both. I will discuss this issue below.

The record at issue consists of a compilation of information entitled "Documentation Pertaining to Educational Services Provided to [the appellant's child] by [the Board]", dated April 18, 1995.

## **DISCUSSION:**

### **PRELIMINARY MATTER**

The appellant states that although she received a letter from her daughter's high school in early September stating that records which make up part of her daughter's Ontario School Record (Part 2 of the request) would be sent to her the following week, she has not yet received this information.

If the information from the daughter's Ontario School Record has not yet been forwarded to the appellant, I order the Board to do so.

## CLOSED MEETING/DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. I have reviewed the record at issue in this appeal and in my view, it contains the personal information of the appellant and her daughter.

The appellant's daughter is over the age of sixteen and has provided a signed consent to the disclosure of her personal information to her mother. Section 14(1)(a) of the Act states that a head shall refuse to disclose personal information to any person other than the individual to whom the information relates except upon the prior written request or consent of the individual, **if the record is one to which the individual is entitled to have access**. The daughter's consent to the disclosure of her personal information to her mother, therefore, will only be operative if section 6(1)(b) does not apply to the information.

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body, however, section 38 provides a number of exceptions to this general right of access.

Section 38(a) of the Act gives the Board the discretion to deny access to an individual's own personal information in circumstances where any of the exemptions listed in that section would otherwise apply to the information. The exemption mentioned in section 38(a) which is at issue in this appeal is the "closed meeting" exemption provided by section 6(1)(b) of the Act.

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.

The Board has included a copy of the minutes of the closed session of the meeting of the Committee of the Whole Board (the Committee) dated April 18, 1995. It is clear from the minutes that a meeting of 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 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 closed to the public when the subject-matter under consideration involves,

...

- (e) litigation affecting the board.

Based on the evidence before me, I am satisfied that the matters discussed during the meeting fall within the ambit of sections 207(2)(e) 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 record, I find that the "theme or subject" of the Board Committee's in camera meeting was how the Board should deal with issues relating to the appellant's objections to the nature of the educational services being provided to her daughter, including the possibility of litigation. I also find that the Committee discussed these particular issues with a view towards deciding how the matter should be approached. On this basis, I have concluded that the disclosure of the information which is 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, and the record qualifies for exemption under section 6(1)(b).

Since I have found that the record qualifies for exemption under section 6(1)(b) of the Act, I find that:

- (1) the appellant's personal information is exempt under section 38(a) of the Act;
- (2) the daughter's consent is not operative to permit disclosure of her personal information to her mother, the appellant.

**ORDER:**

1. I uphold the Board's decision to deny access to the record at issue.
2. I order the Board to forward the records responsive to Part 2 of the appellant's request, within twenty (20) days of the date of this order.
3. In order to verify compliance with this order, I reserve the right to require the Board to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_ November 10, 1995