



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

# ORDER M-717

Appeal M\_9500638

The Board of Education for the City of Hamilton



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## NATURE OF THE APPEAL:

The appellant submitted a request to The Board of Education for the City of Hamilton (the Board) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to a copy of all information in the Board's "central employee file" pertaining to her.

The Board's response mentioned that it had already provided access to a number of responsive records, pursuant to a previous request by the appellant. The Board decided to grant access to all records it had not already disclosed (i.e. those added to her file after her previous request had been processed), free of charge. These records have been sent to the appellant and are not at issue.

However, for records which had been previously disclosed, the Board advised the appellant that it would charge a fee of \$0.20 per page for photocopies. The estimated total fee in this regard is \$33.00. The appellant filed an appeal of this decision. Accordingly, this appeal only relates to the records which were previously disclosed.

A Notice of Inquiry was sent to the appellant and the Board. The Notice of Inquiry invited the parties to submit representations on two issues, namely: (1) whether the Board is obliged to provide copies of the previously disclosed records for a second time, and (2) if so, whether the amount of the fee is consistent with the Act and the applicable Regulation. Both parties submitted representations.

## DISCUSSION:

### PREVIOUS DISCLOSURE AND THE BOARD'S OBLIGATIONS

The Board's representations include an affidavit which substantiates the fact that the contents of the appellant's file were disclosed to her in full as they existed at the time of her previous request. I also note that the adequacy of the Board's search in connection with that request was one of the issues I addressed in Order M-491. I found that the Board had conducted a reasonable search for responsive records.

The request which I dealt with in Order M-491 referred to the appellant's "personnel file", while the present request refers to her "central employee file". Although the appellant alleges that these two files are different, the affidavit submitted by the Board states that they are one and the same. I accept the Board's evidence in this regard.

There is nothing in the materials submitted by the appellant to suggest that she has lost or misplaced the copies of the records previously provided to her by the Board.

Moreover, with regard to the appellant's ability to determine what is in her personnel file at any given time (i.e. to determine whether any records previously in her file have been removed), the

affidavit submitted by the Board states that "... the appellant is free to attend at the Board's premises to go through the personnel file as per the terms of her collective agreement".

In my view, in the particular circumstances of this case, the Board is not required to give access to the previously disclosed records for a second time. I find that, with respect to these records, the Board has already fulfilled its obligations under the Act by its previous disclosure.

Accordingly, it is not necessary for me to address the issue of whether the Board's fee estimate respecting these records is consistent with the fee provisions of the Act and Regulation.

**ORDER:**

This appeal is dismissed.

Original signed by: \_\_\_\_\_  
John Higgins  
Inquiry Officer

\_\_\_\_\_ February 22, 1996