



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER 110**

## **Appeal 890016**

### **Humber College of Applied Arts and Technology**



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>

October 31, 1989

VIA PRIORITY POST

Appellant

Dear Appellant:

Re: Order 110  
Appeal Number 890016  
Humber College of Applied Arts and Technology

This letter constitutes my Order in your appeal from the decision of the head of Humber College of Applied Arts and Technology (the "institution") regarding your request for information made under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act").

On December 10, 1988, you wrote to the institution as follows:

I am requesting access, by way of receiving photocopies, of the documents (as they are made available) in which teachers and professors list or order the books which are required reading for their courses. These lists are held by your campus book store.

Specifically, I want access to the documents which will show me the course identification such as the course number, the name or teacher or professor who is giving the course, author and title and edition and publisher of the book, ISBN numbers of books, required or recommended status of the book, dates on which book ordered and when it will be first used and #no. students.

**[IPC Order 110/October 31, 1989]**

I am prepared to pay a reasonable fee for photocopying and or mailing.

On January 30, 1989, the Freedom of Information and Privacy Co\_ordinator for the institution replied to you as follows:

Access to records showing course number, name of teacher, author, title, edition, publisher, ISBN, status of book, dates ordered, when first used and number of students is hereby denied by Robert A. Gordon, President, Humber College.

1. In denying access to these records, the College relies upon the exemptions set forth under the Act, and specifically sections 18(1)(a) and (c). Further, the College believes that the exemptions set forth under sections 17(1)(a), (b) and (c) may be applicable.
2. The College views the information requested as having substantial commercial advantage to the College, which release would prejudice the College's ability to provide service to its students and its contractual/commercial relationships with its various Suppliers.

On February 2, 1989, I received your letter appealing the decision of the institution, and I gave notice of the appeal to the institution on February 8, 1989. You pointed out in your letter to me that:

Reasons cited by both colleges are "information requested is commercial in nature and would prejudice the college"s sbility (sic) to provide expected level of service to its students". The release of this information would not reduce the level of service to its students. Theoretically if another bookseller used this information to compete with the campus store in selling textbooks this in no way would reduce the capabilityof (sic) aforementioned campus store to provide continued good service. Other area of concern "would endanger our contractual commercial relationship with various suppliers". Humber... could still order as many books as they deem fit for sale at their store. Book suppliers are obliged to sell their

textbooks to any bookseller who orders them and offer the same discount.

As you know, as soon as your appeal was received by my office, an Appeals Officer was assigned to investigate the circumstances and attempt to mediate a settlement. The Appeals Officer obtained and reviewed samples of the records.

During mediation, the Co\_ordinator for the institution submitted that the institution was no longer relying on subsections 17(1)(a), (b) and (c) as grounds for denying access to the records.

Settlement of the other issues in this appeal was not achieved during mediation.

Accordingly, an Appeals Officer's Report was prepared and sent to you and the institution. By letter dated July 20, 1989, you and the institution were asked to make representations to me concerning the subject matter of the appeal. Representations were received from you and the institution. I have taken all representations into account in reaching my decision.

As indicated above, the institution has cited subsections 18(1)(a) and (c) as the basis for refusing to disclose the requested records. The subsections read as follows:

A head may refuse to disclose a record that contains,

(a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;

...

(c) information where the disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;

...

To establish a valid exemption under subsection 18(1)(c), the institution must successfully demonstrate a reasonable expectation of prejudice to its economic interests or its competitive position arising from disclosure of the records.

In its representations, the institution submitted that:

The information requested by the appellant will enable it to identify what books sold by the College bookstore each semester are high volume and enable the appellant to stock all the high volume texts which the College would ordinarily sell to its students. The information requested by the appellant would enable it to avoid buying and selling low volume textbooks which must be sold by the College and which are, to a great extent, subsidized by markups placed on higher volume text sales. Each text which the appellant can sell to one of our students will reduce the number of texts that the respondent will sell. This will impact overall sales and the College's ability to subsidize low volume texts and other activities which the College offers to students.

The information requested by the appellant is confidential commercial information which has never historically been disclosed by the College to any third party and would never be disclosed to a competitor as a result of ordinary commercial transactions.

The institution went on to state:

...the appellant is under no duty to disclose any of its confidential commercial information to the College operation.

The reasons raised by you for disclosure of the records were that:

...the onus of proof being on the head I ask the representatives of Humber ...to give examples of where a campus store is forced to make available their booklists, and their ability to serve their students has been adversely affected. ...I do not believe that the release of this information would harm Humber... Campus stores have the resources, experience, labor pool, etc. to continue to be viable whatever the circumstances.

I have considered the representations submitted by both you and the institution and have reviewed samples of the records at

issue. In my view, the requested records fall squarely within the parameters of subsection 18(1)(c) of the Act. Releasing the book lists could reasonably be expected to prejudice the institution's economic interests as well as its competitive position.

Because I have found that the exemption provided by subsection 18(1)(c) of the Act applies to the records at issue in this appeal, it is not necessary for me to consider the application of section 18(1)(a).

My order is, therefore, to uphold the decision of the head.

Yours truly,

Sidney B. Linden  
Commissioner

cc: Mr. Robert A. Gordon, President  
Ms Carol Boettcher, FOI Co\_ordinator