



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-26

Appeal M-910251

Regional Municipality of Sudbury



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ORDER

BACKGROUND:

The Regional Municipality of Sudbury (the institution) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to "the names of all students who were awarded spring and summer jobs by the regional municipality in 1990 and to date in 1991". The requester subsequently clarified his request to specify that he wanted the names of temporary and part-time employees, including those who had been hired for summer jobs for the period of 1990 until May 17, 1991.

The institution denied access to the requested information under sections 14 and 32(c) of the Act, and the requester appealed the institution's decision. During mediation the institution withdrew its claim under section 32(c).

The record responsive to the request is a computer generated list. It identifies individuals who were hired prior to 1990 and who were either re-hired on a temporary or part-time basis in 1990 and/or 1991. The record contains the following information: the names of the individuals, their positions, employee status and seniority dates. The appellant is only interested in the names of the temporary and part-time employees, including those who have been hired for summer jobs for the period of 1990 until May 17, 1991.

Mediation efforts in this appeal were not successful. As a result, notice that an inquiry was being conducted to review the head's decision was sent to the institution and the appellant. Accompanying the notice was a report prepared by the Appeals Officer, intended to assist the parties in making representations to this office concerning the subject matter of the appeal.

In order to make those persons whose names appear in the record aware of the fact that an inquiry was being conducted and to provide them with information about the appeal and their right to make representations, a Notice of Inquiry was placed in the Sudbury Star and Le Voyageur on two separate days.

Representations were received from the institution and the appellant. No representations were received from any of the persons whose names appear in the record.

ISSUES:

The issues arising in this appeal are as follows:

- A. Whether the names which appear in the record qualify as "personal information", as defined in the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the names which appear in the record qualify as "personal information", as defined in the Act.

In part, personal information is defined in section 2(1) of the Act as follows:

"personal information" means recorded information about an identifiable individual, including,

...

- (h) the individual's name if 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;

The appellant did not make any representations concerning whether the names which appear in the record qualify as "personal information".

The institution claims that the names which appear in the record constitute personal information because disclosure of the names would reveal other personal information about the individuals (i.e. the fact that they were hired for temporary or part-time jobs) within the meaning of subparagraph (h) of the definition of personal information. I agree with the institution's position.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.

Section 14 of the Act prohibits the disclosure of personal information except in certain circumstances. Specifically, section 14(1)(f) of the Act reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Section 14(4) of the Act identifies particular types of information, the disclosure of which does not constitute an unjustified invasion of personal privacy. Section 14(4)(a) reads:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution;

If a record contains the type of information described in section 14(4), the exception to the section 14 exemption contained in section 14(1)(f) will apply [Order M-23].

In its representations, the institution submits that section 14(4)(a) does not apply to the names which appear in the record.

In my view, it is significant that the words "of an individual" appear in section 14(4)(a). These words precisely reflect the fact that section 14 is directed to personal information which, by definition, is information about an identifiable individual. Therefore, in my opinion, section 14(4)(a) applies to the names of individuals who are or were employed by the institution. Accordingly, the disclosure of the names would not constitute an unjustified invasion of personal privacy.

ORDER:

1. I order the institution to disclose to the appellant the names of temporary and part-time employees, including those who have been hired for summer jobs, for the period of 1990 until May 17, 1991.
2. I also order that the institution not make that disclosure until thirty (30) days following the date of the issuance of this order. This time delay is necessary to give any party to the appeal sufficient opportunity to apply for judicial review of my decision before the names are finally disclosed. Provided that notice of an application for judicial review has not been served on the Information and Privacy Commissioner/Ontario and/or the institution within this thirty (30) day period, I order that the names referred to in Provision 1 of this order be disclosed within thirty-five (35) days of the date of this order. The institution is further ordered to advise me in writing within five (5) days of the date on which disclosure was made.
3. Any notice should be forwarded to my attention c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.
4. In order to verify compliance with the provisions of this order, I order the head to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, only upon request.

Original signed by: _____
Tom Wright
Commissioner

July 10, 1992