

ISSN 1198-6182

**Office of the Information and Privacy Commissioner  
Province of British Columbia  
Order No. 134-1996  
December 9, 1996**

**INQUIRY RE: Decisions of the Vancouver School Board regarding an applicant's requests for records**

**Fourth Floor  
1675 Douglas Street  
Victoria, B.C. V8V 1X4  
Telephone: 250-387-5629  
Facsimile: 250-387-1696  
Web Site: <http://www.cafe.net/gvc/foi>**

**1. Description of the review**

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on August 28, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of four separate requests for review relating to decisions of the Vancouver School Board (the public body) in response to three requests for records submitted by the applicant.

**2. Documentation of the inquiry process**

On March 11, April 23, and May 6, 1996, the applicant submitted separate requests for records in the custody of the Vancouver School Board.

**Request 1:** The Vancouver School Board responded to the first request by seeking clarification from the applicant and then supplying him with various records. He requested a review of the time that it took the School Board to respond and the adequacy of the records provided.

**Request 2:** In dealing with the applicant's second request, the Vancouver School Board extended the time required for it to respond and then provided the applicant with partially severed records. The applicant requested two reviews, one of the time extension taken by the School Board, and the other of the adequacy of the records provided and the fact that they were partially severed. The School Board later provided the applicant with a second, separate set of partially severed records.

**Request 3:** The Vancouver School Board responded to the applicant's third request by withholding all of the requested records under section 14 of the Act; he requested a review of its decision.

Requests 1 and 2 relate as well to complaints made by the applicant under section 42(2) of the Act and reviewed by this Office under section 52(1).

The applicant's requests for review and complaints are consolidated for convenience into this single inquiry.

### **3. Issues under review at the inquiry**

The issues relating to the applicant's access requests of March 11 and April 23, 1996 (Requests 1 and 2) are the following:

- a) Did the Vancouver School Board properly extend the time limit for responding to the applicant's request?
- b) Did the Vancouver School Board adequately search for and provide sufficient records relating to the applicant's request?

The issue relating to the applicant's access request of May 6, 1996 (Request 3) is the following:

- c) Did the Vancouver School Board properly withhold the records under section 14 of the Act?

The relevant sections of the Act are as follows:

#### ***Duty to assist applicants***

- 6(1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

....

#### ***Extending the time limit for responding***

- 10(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the commissioner's permission, for a longer period if
  - (a) the applicant does not give enough detail to enable the public body to identify a requested record,

- (b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body,
  - (c) more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record, or
  - ....
- (2) If the time is extended under subsection (1), the head of the public body must tell the applicant
- (a) the reason,
  - (b) when a response can be expected, and
  - (c) that the applicant may complain about the extension under section 42(2)(b) or 60(1)(a).

***Legal advice***

- 14 The head of a public body may refuse to disclose to an applicant information that is subject to solicitor client privilege.

**4. The records in dispute**

The records in dispute consist of seven pages of letters, including an Audit Report Form, sent by the director of the School Finance and Data Management Branch, Ministry of Education, to three school board officials. The records also include seven pages of account statements from a law firm, and an undisclosed number of pages of correspondence between the Vancouver School Board and a law firm.

**5. Submissions and discussion of Request 1**

***a) Extension of time limit***

There are no records in dispute in this part of the inquiry, since the applicant received what he asked for. My review of the School Board's correspondence with the applicant indicates that there was a legitimate need to clarify what he was asking for.

The applicant made the request on March 11, 1996; the School Board sought clarification on March 14. The applicant responded on March 26. The records were disclosed on April 17. The Board did not actually invoke section 10, because it thought it was responding within thirty days from the time the request was clarified. The School Board submits that it responded within the thirty-day time frame once clarification was received.

I think this is an incorrect interpretation of section 10, although I acknowledge that the School Board did not breach the spirit of the Act. Section 10(1)(a) allows the School Board to extend the thirty-day time frame if the applicant does not give enough detail to enable it to identify a request. The Board did not respond within the thirty days, but it did respond within an extended time frame, as authorized by section 10(1)(a). The problem is that the Board did not follow the correct procedures under section 10(2).

There has been no unfairness to the applicant in this case, and there was no undue delay in response by the public body. Because the School Board was authorized to extend the thirty days under section 10(1)(a), I conclude that its failure to follow the procedure outlined in section 10(2) does not justify substantiating the applicant's complaint on this matter.

***b) Adequate search***

I have reviewed the School Board's submission of its efforts to locate a record responsive to the applicant's request. I find under section 6 of the Act that it made every reasonable effort to assist the applicant and to provide him with appropriate records.

**6. Submissions and discussion of Request 2**

***a) Extension of time limit***

There are no records in dispute in this part of the inquiry, since the applicant received what he asked for. With respect to the issue of extending time limits, my review of the School Board's explanation for the consultations it undertook with various public bodies and organizations was rational and reasonable in terms of the nature of the legal records in dispute. It makes sense to me that the School Board should have waited for the release of my Order No. 107-1996, May 29, 1996, and Order No. 110-1996, June 5, 1996, not least because the latter Order concerns the same applicant, the same public body, and the same law firm. Under section 58(3)(b), I confirm the time extension taken by the Vancouver School Board.

I also find it appropriate for my staff to indicate to any applicant or public body that an Order will be forthcoming on a matter at issue in another current request for review. (See Reply Submission of the Applicant, pp. 7, 8)

***b) Adequate search***

I have reviewed the School Board's submission of its efforts to find records responsive to the applicant's request. I find under section 6 of the Act that it made every reasonable effort to assist the applicant and to provide him with appropriate records, none of which concerned services provided to the Vancouver School Board in matters affecting the applicant.

## 7. Submissions and discussion of Request 3

The School Board has informed me that this request for records concerns the same issues that I have dealt with in Order No. 107-1996, which also involved this same applicant and the School Board. The latter reiterates that the records in dispute are subject to solicitor-client privilege under section 14 of the Act.

On the basis of the submissions from the parties and my own review of the records in dispute, I find that the information in them is subject to solicitor-client privilege and is thus excepted from disclosure under section 14 of the Act.

### *Other matters*

Once again, the submissions of this applicant raise a plethora of issues about white-collar crime, collusion, and even fraud. (Reply Submission of the Applicant, pp. 11-16) My response is the same as in Order No. 107-1996, pp. 3, 4, and Order No. 110-1996, pp. 4, 5, which concerned the same applicant.

On August 28, 1996 the applicant submitted a ten-page series of "Objections on procedural and other issues." The School Board's argument is that this is a further submission and that it should have a right of reply. I do not believe that there is any need for it to do so, given their contents. The applicant's objections are essentially an attack on my staff and my previous Orders concerning the applicant.

## 8. Orders

**Request 1:** I find that the Vancouver School Board made every reasonable effort to assist the applicant and provide him with appropriate records under section 6 of the Act.

**Request 2(a):** I find that the time extension taken by the Vancouver School Board in this case was appropriate under section 10(1)(c) of the Act. Under section 58(3)(b), I confirm the time extension taken by the Vancouver School Board.

**Request 2(b):** I find that the Vancouver School Board made every reasonable effort to assist the applicant and provide him with appropriate records under section 6 of the Act.

**Request 3:** I find that the information in the records in dispute is subject to solicitor-client privilege and is thus excepted from disclosure under section 14 of the Act. Under section 58(2)(b) of the Act, I confirm the decision of the head of the Vancouver School Board to refuse access to the records in dispute to the applicant.

---

David H. Flaherty  
Commissioner

December 9, 1996