

**In the Case of an Application for Authorization to Disregard Requests from [a Respondent] under Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) by the Vancouver School Board (VSB)**

I have had the opportunity of reviewing the application of the Vancouver School Board under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard section 5 requests made by [the respondent].

Section 43 gives me the power to authorize a public body to disregard requests under section 5 that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Vancouver School Board.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard must be given sparingly and only in obviously meritorious cases. Granting section 43 requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a review of the submissions of the Vancouver School Board, its documentation of each access request made by [the respondent], and [the respondent]'s extensive response to the Vancouver School Board's submissions, the following factors have led me to decide that [the respondent]'s access requests are repetitious, systematic, and unreasonably interfere with the operations of the School Board:

1. The Vancouver School Board spent well over 100 hours responding to [the respondent]'s 21 requests in 1995, plus hours spent on mediation, and over 90 hours of staff time in participating in Order No. 110-1996, June 5-1996.
2. [The respondent]'s access requests comprised over 60 percent (21 of 34) of the formal requests to the Vancouver School Board in 1995 and 75 percent (9 of 12) of the requests received so far in 1996. The Vancouver School Board has already responded to 6 of the latter. Overall, [the respondent] has made 65 percent (30 out of 46) of the access requests to the Vancouver School Board in 1995-96. [The respondent] submitted another request on July 24, 1996.
3. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is not using the Act for the purposes for which it was intended and that [the respondent] is not, indeed, acting in good faith. (See Order No. 110-1996, June 5-1996, pp. 5-6)
4. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is using the Act as a weapon against the Vancouver School Board after an episode in the workplace that has left [the respondent] unhappy and preparing to arbitrate a claim of unjust dismissal.

5. The evidence submitted by the Vancouver School Board is that the systematic and repetitious nature of [the respondent]'s requests to the Vancouver School Board and of [the respondent]'s appeals at its responses is unreasonably interfering with the operations of the Vancouver School Board.

6. My conclusion based on the evidence submitted by the Vancouver School Board is that [the respondent] is habitually, persistently, and in bad faith making excessive and irrational requests and demands on the Vancouver School Board. For purposes of this conclusion, I have adopted the tests of reasonableness and abuse of process set out by Ontario Information and Privacy Commissioner, Tom Wright, in Order M-618, October 18-1995, involving the London Police Services Board.

7. The evidence submitted by the Vancouver School Board that responding to [the respondent]'s requests has dramatically limited the time that the Vancouver School Board's staff can devote to requests from other applicants under the Act.

8. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is not using the Act for the purpose for which it was intended and that any further continuation of these actions could place the Act in disrepute. The Act must not become a weapon for disgruntled individuals to use against a public body for reasons that have nothing to do with the Act.

9. The evidence submitted by the Vancouver School Board is that it has exercised considerable restraint and has made every effort to assist [the respondent] and to respond without delay to [the respondent] openly, accurately, and completely.

10. Finally, I reject the submission of [the respondent] that my Office has treated [the respondent] unfairly. On the basis of the materials submitted by [the respondent], I have concluded that my staff has acted appropriately and fairly in its administration of the application.

**Therefore, I authorize the Vancouver School Board to disregard the following:**

- 1. All outstanding requests for records by [the respondent].**
- 2. All future requests for records which relate to the Carnegie Community Centre and the Carnegie Adult Learning Centre.**
- 3. All requests of any kind by [the respondent] for a period of one year.**

August 30, 1996

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David H. Flaherty  
Commissioner