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| Request by non-custodial parent for children’s school reports |
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| Legislation Official Information Act 1982, s 9(2)(a)  Agency Board of Trustees  Ombudsman Anand Satyanand  Case number(s) A5861  Date August 1997 |

*Request by non-custodial parent for children’s school reports—children asked school not to make reports available—reports addressed principally to caregiver—matters to be reported under section 77 of the Education Act—section 9(2)(a) made out—public interest met by separate report prepared on matters under section 77 of the Education Act*

The circumstances in this case were similar to those outlined in the case notes W32982 and W34275. The non-custodial parent of two students aged nearly 16 and nearly 14 was advised by the college principal that both children had said they did not wish their reports to be made available.

The contents of the reports at issue included considerable detail about each student’s level of achievement in particular subjects and a mixture of complimentary and critical comments by their teachers, most of which appeared to be directed at the caregiver rather than the students themselves. However, some of the information in the reports disclosed matters falling within the ambit of section 77 of the Education Act which provides, relevantly:

The principal of a state school shall take all reasonable steps to ensure that*—*

(a) Students get good guidance and counselling; and

(b) A student’s parents are told of matters that, in the principal’s opinion,-

(i) Are preventing or slowing the student’s progress through the school; or

(ii) Are harming the student’s relationships with teachers or other students.

In assessing the weight of the privacy interest in the information at issue, regard was had to the views of the students themselves. The Privacy Commissioner was also consulted. The older of the two students had since left school and had demonstrated a wish to have nothing to do with the non-custodial parent. The principal of the school spoke with the younger student to try to ascertain whether the decision not to allow the non-custodial parent access to the reports had been influenced by others, but was satisfied that the student had made a personal decision. In the circumstances, it was concluded that there was a privacy interest in terms of section 9(2)(a) of the OIA which required protection.

It was then necessary in terms of section 9(1) of the Act to assess whether there were any public interest considerations which outweighed the established privacy interest. The guardianship rights of non-custodial parents who wish to play a part in their children’s education were taken into account, but those rights could be safeguarded by the provision of a report containing the type of information envisaged by section 77(b) of the Education Act. The principal was willing to provide such reports upon request. It was therefore concluded that the need to withhold the school reports to protect the privacy interest identified in section 9(2)(a) was not outweighed in this case by any countervailing public interest considerations favouring disclosure.

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