

FILE NO. - 99/007★

**REPORT WITH RESPECT TO THE APPLICATION  
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION  
REQUESTED FROM KINDERSLEY SCHOOL DIVISION #34**

[REDACTED] applied to the Kindersley School Division for access to an agreement made between the Division and one [REDACTED] with respect to the termination of his employment. By letter dated February 19, 1999 she was advised by the School Division that her request was refused. The letter states in part:

"In particular, the document contains information that relates to a former employee. The document was treated as confidential by the Board and the employee at the time the document was prepared. Solicitors were involved in its preparation.

Section 18(1)(b) prohibits the release of information supplied in confidence to the local authority. Section 18(1)(c) prohibits the release of information which could interfere with the contractual or other negotiations of a third party. This information can only be released with the consent of the third party (section 18(2)).

The requested document may also fall within the meaning of section 16(1)(b) as a deliberation involving an officer of employee of the Board.

In addition section 23(1)(b) prohibits the release of information that relates to the employment history of an individual. Again, such information can only be released with the written permission of the individual concerned."

On June 17, 1999 I wrote a letter to the Kindersley School Division in which I advised them of the request for review and in which I drew their attention to the provisions in the Regulations made pursuant to the Act, the relevant portion of the Regulation being Section 10 which provides:

**"10** For the purpose of subsection 28(2) of the Act, **"personal information"** may be disclosed:

- (g) to any person where the information pertains:
  - (i) the performance of any function or duty, or the carrying out of any responsibility by an officer or an employee of the local authority; or
  - (ii) the terms or circumstances under which a persons ceases to be an employee of a local authority, including the terms of any settlement or award resulting from the termination of employment ..."

In reply I received a lengthy submission from Geraldine Knudsen, a solicitor employed by the Saskatchewan School Trustees' Association. Rather than attempt to summarize or paraphrase the submission I am attaching a copy of the letter as Appendix "A" to this report.

I then requested, and obtained, a copy of the document in question, being an Agreement between the Kindersley School Division and [REDACTED] dated January 13, 1999 which sets out the terms under which it was mutually agreed between the parties that the employment of [REDACTED] would terminate. There does not appear

to be anything in the Agreement containing information about medical or personal problems, sick leave or retirement plans. The contract appears to be limited strictly to the terms under which the contract of employment was terminated. It does contain an undertaking by the employee not to disclose or discuss confidential information acquired during his term as [REDACTED], including discussions with the Board leading up to the termination Agreement. It then goes on as follows:

"That, unless required to do so by law, the Board shall not disclose or discuss any confidential information acquired concerning the Employee including, but not limited to, discussions with the Employee leading up to this Mutual Termination, provided, however, that the Board shall not be prevented in any way from responding to requests from potential employers concerning the employment record of the Employee."

There are no other provisions in the Agreement pertaining to confidentiality.

I do not accept the suggestion that the terms embodied in the Agreement reflect or disclose any confidential advice given by the solicitors for either party, and I know of no authority for the suggestion that this document enjoys legal privilege, and although requested, none have been supplied to me.

The terms with respect to confidentiality which were inserted in the Agreement do not appear to me to constitute a commitment by either the Board or the employee that the terms of the Agreement would be secret or confidential.

In my view, the provisions of Section 10 of the Regulations authorize the disclosure of this record, notwithstanding the prohibition in the Act against the disclosure of personal information. Accordingly, it is my conclusion that this record should be disclosed to the Applicant, and I recommend that the Agreement be disclosed as requested by the Applicant.

Dated at Regina, Saskatchewan this 25<sup>th</sup> day of October, 1999.

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**Derril G. McLeod, Q.C.,  
Commissioner of Information and  
Privacy for Saskatchewan**