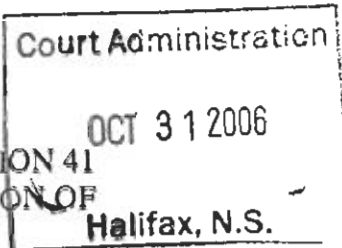


2006

COPY
S.H. No. 263926A

IN THE SUPREME COURT OF NOVA SCOTIA
And
IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 41
OF THE FREEDOM OF INFORMATION AND PROTECTION OF
PRIVACY ACT, S.N.S. 1993, c.5



BETWEEN:

ATLANTIC INSTITUTE FOR MARKET STUDIES

APPELLANT/
APPLICANT FOR INFORMATION

- and -

HALIFAX REGIONAL SCHOOL BOARD

RESPONDENT

AFFIDAVIT

I, Judy White, of the Regional Municipality of Halifax, Province of Nova Scotia, make oath and say as follows:

1. I am Senior Staff Advisor for the Halifax Regional School Board ("HRSB"), the Respondent in this matter, and as such have personal knowledge of all the matters herein deposed to except where stated to be by way of information and belief.
2. I have been Senior Staff Advisor since November, 2005. Prior to that date, I was employed as Director, School Administration. I have been a member of the Senior Staff of HRSB since February, 2003. I began my career in public education as a classroom teacher in 1972, and at all times since then have been employed by the HRSB or its predecessors.
3. The Halifax Regional School Board is a body corporate created pursuant to the *Education Act*, S.N.S. 1995-96, c.1. The HRSB has a mandate to deliver public education programs and services to students whose parents reside in the geographic boundaries of the Halifax Regional Municipality, which boundaries match the geographic boundaries of the HRSB.

4. Pursuant to the *Education Act*, the HRSB delivers programs and services in accordance with the curriculum requirements established by the Department of Education ("DOE") and in a manner that is in accordance with policies established from time to time by the Department of Education. In particular, in regard to curriculum matters, the Halifax Regional School Board delivers curriculum in accordance with the Public School Program. The Public School Program is the document provided by the Department of Education which outlines the program to be taught to Nova Scotian students from primary to grade 12.
5. On April 29, 2005, HRSB received a request from the Atlantic Institute for Market Studies (AIMS) for information relating to student grades and other information. A true copy of this request is attached as Exhibit "A".
6. The HRSB considered AIMS request, and consultations were held with Senior Staff and other HRSB personnel to determine the costs and resources associated with providing the information. Each AIMS request was examined individually to determine the cost associated with data retrieval. Individuals familiar with school based data were consulted and an average hourly requirement per school per request was determined and charged at the rate of \$30.00 per hour. This hourly fee was in the average range of fees charged by consultants, tutors, etc. To retrieve that data will require a person who has knowledge of the education system and the software used in our schools; therefore, an educator will be selected to perform these services in our schools. HRSB responded on June 28, 2005 with a fee estimate of \$24,120.00 plus photocopying at \$0.20 per page. A true copy of HRSB's response is attached as Exhibit "B".
7. Following a Request for Review from AIMS under the *Freedom of Information and Protection of Privacy Act* ("FOIPOP"), on January 23, 2006, the FOIPOP Review Officer issued a Report wherein he made certain recommendations. A true copy of the Review Officer's Report is attached as Exhibit "C".
8. I, along with other staff members, including Selena Henderson, the HRSB Board Secretary, attended a meeting on March 5, 2006 with representatives from AIMS. In that meeting we discussed the recommendations of the Review Officer and discussed the lowering of fees associated with collecting and creating the data requested by AIMS. Senior staff, with a view to responding to the Review Officer's recommendations, recalculated new reduced costs. These reduced costs were possible, in part, because AIMS had limited the scope of certain of its requests.
 - The HRSB reduced the charge for Request #1 and #2 from \$4,800 to \$1,920. The scope of AIMS' request had been reduced from five to three years.
 - The charge for Request #2 was reduced to zero and is now included in the revised figure for Request #1.
 - The cost for Request #5 was not reduced because the time intensive nature of this request has not changed.

- Request #6 has been reduced by 50% because AIMS reduced the scope of the material requested.
- Request #8 was reduced by 80% because AIMS reduced the scope of the material requested.

All other requests set forth in Exhibit "A" were withdrawn by AIMS.

9. On March 9, 2006 Ms. Henderson officially responded to the Review Officer's recommendations by advising AIMS that the revised fee estimate for the requested information would be \$5,670.00. A true copy of Ms. Henderson's letter is attached as Exhibit "D".

HRSB's Data Collection

10. The HRSB collects a wide range of data to meet its primary purpose of student learning. The data it collects is in a form useful to the HRSB for enhancing student learning and for determining the focus of professional development for its staff.
11. The HRSB regularly provides information required by the DOE and has been compliant with all reporting requirements and requests from the DOE. This reporting sometimes occurs directly between schools and the DOE, while other information is communicated from the Board level.
12. The primary responsibility of the HRSB is to report to parents/guardians on the individual progress of their children. The HRSB's policy on Student Assessment and Evaluation defines the roles and responsibilities of the teacher, the school and the Board. This policy stipulates reporting requirements, evaluation procedures and assessment methods. Teachers regularly communicate with home using a variety of approaches which would include, but not be limited to, report cards, parent teacher interviews, homework, email, phone calls, attendance reports, online access to student records, etc. A true copy of the HRSB's Student and Assessment Policy and Procedures is attached as Exhibit "E".
13. The HRSB has been limited in its ability to track and report on some aspects of student data because of the lack of uniformity in the information gathering system at the school level and the lack of a Student Information System. The HRSB recognizes that an integrated student information system would greatly enhance its abilities to centralize, collate and report information to the public. Regardless of this challenge, the Board endeavours to report yearly on Board and Provincial assessments. These reports are shared on an individual school and Board basis, eg., grade 2 and grade 9 Board literacy assessments, grade 3 and grade 9 Board math assessments and grade 6 provincial assessments.

Grade 12 Marks

14. AIMS has requested the average examination grade on the five provincial exams, by school for the 2001 – 2002 to the 2003 – 2004 school years. AIMS has also requested the corresponding class marks for these courses for the same time period.
15. This type of information is not centrally collected by the HRSB because the average examination mark is not as important or useful for the decisions made at the Board level as it is at the school level. The analysis of these marks allows the school to have conversations regarding the strengths and challenges at each school site. The corresponding class marks are constructed by individual teachers and do not allow for Board level comparison due to the unique assessments used by each teacher.
16. For the years in question, the grade 12 information requested by AIMS was not tracked uniformly by all schools in the HRSB. For example, schools vary in regard to the material teachers are required to submit to produce a report card. Some schools require teachers to provide only a final mark, whereas other schools require a break down of the final mark be submitted, including a separate detailing of exam and teacher assigned marks.
17. In many cases, data in the format requested by AIMS will need to be created and in some instances cannot be created. I am advised by Dan Gillis, Leader School Technology-Data Management, and do verily believe that the process necessary to obtain the final marks would require an individual to visit each of the 16 high schools and determine which data could be accessed or created and then averaged on a yearly basis.

Grade 9 Marks

18. AIMS has requested a complete listing of the average grade for Grade 9 students, listed by school, for the 1999 – 2000 to the 2003 – 2004 school years.
19. This information was not centrally collected for the years in question by the HRSB because junior high schools in HRSB used letter grades (A to E) when reporting to parents on student progress in Grade 9. This information is not useful at the Board level, however, it is useful at the school site.
20. Until November 2006, the HRSB used only letter grades when assessing its grade nine students. The letter grades assigned had common descriptors but were not quantified. For example, the description for an “A” is as follows: student consistently demonstrates achievement of the expected learning outcomes addressed during the current reporting period. The student’s work exceeds the expected standard of achievement. The descriptor for a “B” is as follows: The student consistently demonstrates achievement of

most of the expected learning outcomes addressed during the current reporting period. The student's work meets expected standard of achievement.

21. It is not possible for HRSB to provide AIMS with an "average" of grade nine marks, since no numerical data exists from which such a grade could be calculated.
22. I am advised by Geoff Cainen, Director of Program, and do verily believe that although it may be possible for HRSB to retrieve the percentage of students receiving a specific letter grade, this would require considerable staff time to attend at either the junior high or high school where the record exists. This information would need to be compiled to meet AIMS' request and would not be valuable information for the Board or its schools.
23. The process associated with obtaining this information cannot be precisely determined until a visit is made to each site but would far exceed the previously estimated 66 hours to compile the information, and the actual cost associated with doing so would far exceed the previously estimated cost of \$1,980.00.

Attendance Rates

24. AIMS has requested annual student attendance rates in Grades 10, 11 and 12 listed by school for the 2004 – 2005 school year.
25. This information is not centrally collected by the HRSB at the Board level because it is retained and useful only at the site level and is no longer required to be submitted to the DOE.
26. I am advised by Dan Gillis, and do verily believe that the process necessary to create this record would involve contacting individual high schools and providing instructions to the staff of those schools to enable the data to be located on the school based information system.

Postal Code Information

27. AIMS has requested HRSB provide it with the number of students by postal code in Grades 10, 11 and 12, listed by school for the 2004 – 2005 school year.
28. Although students' postal codes are collected at each school for each individual student as part of the student' personal information, this information is not centrally collected by the HRSB.
29. I am advised by Dan Gillis, and do verily believe the process necessary to create this record would involve creating a report at each high school. The raw data would then need to be exported into a spread sheet and all postal codes appearing fewer than six

