

February 1, 2023

Candice Pilgrim
36 Trillium Road
Belleville, Ontario
K8N 4Z5

Dear Ms. Pilgrim:

MFIPPA request: 04-2022, Adventure Class and alternative programs records

In response to your request for access to information under the *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA” or the “Act”), I am providing you with this fee estimate and fee waiver decision.

Your request

Your request sought access to the following scope of records:

1. *Any and all documentation from meetings (public or closed), emails, SMS and other messaging apps (including those on back-up programs), memos, notes and notes to file pertaining to: discussions around and/or decisions made regarding the Adventure Class program; the operation of the program; and/or the expansion of the program; and/or the closure of the Adventure Class; and/or the decision not to transition the Adventure Class to an alternate school site if and when Queen Victoria closes;*
2. *Any and all documentation from meetings (public or closed), emails, SMS and other messaging apps (including those on back-up programs), memos, notes and notes to file pertaining to: discussions around and/or decisions made regarding any alternative education programs; and/or the operation of the programs; and/or the expansion of the programs; and/or the closure of the programs and the rationale therefore;*
3. *Any and all documentation from meetings (public or closed), emails, SMS and other messaging apps (including those on back-up programs), memos, notes and notes to file pertaining to: any procedure, policy, or practice created to evaluate alternative programs running within the HPEDSB, including the Adventure Class; and/or any discussion pertaining to the decision to develop a policy, practice, or procedure to review special or alternate programs within the Board.*

Please include any program reviews and/or documents, emails, SMS and other messaging apps, memos, notes to file pertaining to the "Adventure Class", including but not limited to possible alternate language used to identify the Adventure Class, such as: basement classroom(s) or

program(s); alternative program(s) or classroom(s); "AC"; alternative classroom(s) or program(s); Queen Victoria AC or alternative class or program; or, any other synonym used to describe the Adventure Class program.

Please exclude from my request correspondence to and from Elizabeth Walsh, Gillian Raymond, and Susan Sewell-Charles.

As we have not yet reviewed the records in full, no final decision has been made regarding access. It is possible that third party notification will be required since some the requested records relate to third parties.

Based on a review of a representative sample of 20 records, I estimate that full or partial access will be granted to the majority of the records. Sections 7, 10 and 14 of MFIPPA may apply to withhold access to some of the records in part or in full.

Fee estimate

The Act contemplates a user-pay principle. Under MFIPPA, individuals seeking access to government records are required to bear some of the administrative costs involved in handling their requests, with certain limited exceptions.

Section 45 of the Act authorizes institutions to charge fees for responding to access requests, which are set out in *Ontario Regulation 823*:

The following are the fees that shall be charged for the purposes of subsection 45 (1) of the Act for access to a record:

- For photocopies and computer printouts, 20 cents per page.
- For records provided on CD-ROMs, \$10 for each CD-ROM.
- For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
- The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received. O. Reg. 22/96, s. 2; O. Reg. 93/07, s. 1.

The broad scope of the request has raised difficulties for HPEDSB to respond to your access request. The search for responsive records yielded a high number of potentially responsive records and a broad variety of electronic record format types. In zipped state, the files are 1.16500 gigabytes in size. An initial review of the files indicates that the file types include PDF documents, MS-Word documents, MS-Excel spreadsheets, MS-PowerPoint slide decks and email threads. The volume of records and the disparate file types require HPEDSB to engage a third party to respond to your request.

In order to process your request, HPEDSB must charge for the computer costs arising from the tool needed to process your request. *Relativity* is an eDiscovery platform that helps teams to process voluminous files and conduct data review to meet disclosure requirements. In calculating computer

costs, an institution may charge a fee for costs for which the institution has been invoiced. The attached invoice for such computing costs amounts to \$3,318.00. This invoice reflects the fees that must be paid to process this access to information request in accordance with section 45 of MFIPPA and section 8 of *Ontario Regulation 823*.

Fee waiver

Processing fees are mandatory under the Act; however, a requester may seek a fee waiver. The fee provisions in MFIPPA establishes a user-pay principle which is founded on the premise that requesters pay the prescribed fees associated with processing a request unless it is fair and equitable that they not. The requester must present a persuasive argument that a fee waiver is justified because it is fair and equitable to grant it.

Your request for a fee waiver reads, *... I ask that you waive the processing fee, if any, for the production of the records, on the basis of the benefit to the public and to the specific children who are the beneficiaries of Board programming in their schools to the access to the information.*

We have considered a number of factors under section 45(4) to assess whether to grant a fee waiver. The only fee relayed to you is the above-noted invoice fee required to process the requested records. HPEDSB has decided not to seek fees for other prescribed amounts under section 45(1) of MFIPPA. Waiving the singular fee sought by HPEDSB would shift an unreasonable burden of the cost to the institution. Therefore, given the financial burden on HPEDSB and the limited scope of the fees sought, it would not be fair and equitable to grant a fee waiver in these circumstances. On that basis, we are denying your request for a fee waiver.

Next steps

In accordance with section 7(1) of *Regulation 823*, where the fee estimate is \$100.00 or more, an institution may request a deposit equal to 50 per cent of the estimated fee before taking any further steps to process the request. If you would like HPEDSB to continue processing your access request, please provide a deposit in the amount of \$1,659.00 by cheque or money order, payable to Hastings and Prince Edward District School Board. Please remit payment of the deposit to my attention.

You may appeal this fee estimate or fee waiver decision by writing to the Information and Privacy Commissioner of Ontario at Suite 1400 – 2 Bloor Street East, Toronto, Ontario, M4W 1A8.

Please note that you have 30 days from this letter to request an appeal. If you decide to seek an appeal of this decision, please provide the Commissioner's office with the following:

- the file number listed at the beginning of this letter;
- a copy of this decision letter;
- a copy of your request that you sent to this institution; and
- an appeal fee of \$25.00 (cheque or money order) payable to the Minister of Finance.

Sincerely,



Kerry Donnell
Communications and Privacy Manager

INVOICE

TO: Candice Pilgrim		INVOICE DATE: February 1, 2023	
QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1	Computing cost fees for Freedom of Information request, Adventure Class		\$3,318.00
		Sub-Total	\$3,318.00
		HST	\$0
		Total	\$3,318.00
	50% DUE UPON RECEIPT PLEASE PAY THIS AMOUNT NOW		\$1,659.00
	THE REMAINING BALANCE WILL BE INVOICED UPON COMPLETION OF THE FREEDOM OF INFORMATION REQUEST AND WILL BE DUE IN FULL AT THAT TIME		\$1,659.00

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H.S.T. # 87293 3494 RT