



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-354

Appeal M-9400153

Halton Board of Education



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested copies of all records in the custody or control of the Halton Board of Education (the Board) which contain her personal information. In its decision letter, the Board indicated that some responsive records would not be provided as the appellant already had copies of them. The Board then granted partial access to some other records responsive to the request. Access was denied to portions of the records based on sections 14 and 19 of the Act.

In appealing the decision of the Board to deny access, the appellant also indicated that she believes that further responsive records exist. As a result of mediation, the sole issue in this appeal is whether further responsive records exist.

A Notice of Inquiry was provided to the appellant and the Board. Representations were received from both parties.

DISCUSSION:

In her representations, the appellant submits that one particular record should have been provided to her as she believes it is responsive to her request for her own personal information. She identifies this record as the Board's submission to the Clerk of the Standing Committee of the Legislative Assembly relating to the Public Hearings concerning the Act.

She further indicates that she is currently involved in litigation with the Board and has received documentation through the discovery process which she believes should have also been included as records responsive to her access request.

I will deal with each of these issues in turn.

RESPONSIVENESS OF THE BOARD'S SUBMISSION

The appellant believes that the Board's submission to the Standing Committee contains statistical information which relates to her and that, therefore, this information qualifies as her personal information.

Personal information is defined in section 2(1) of the Act, in part, as "recorded information about an identifiable individual". I have reviewed the record in question. In my view, the record contains statistical data relating to access requests received by the Board and contains no information which could, in any way, be construed as information about an identifiable individual. In my view, this record is not responsive to the appellant's request.

REASONABLE SEARCH

Where the requester provides sufficient details about the records which she is seeking and the Board indicates that additional records do not exist, it is my responsibility to ensure that the Board has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Board to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Board must provide me with sufficient evidence which shows that it has made a **reasonable** effort to identify and locate records responsive to the request.

The representations of the Board include sworn affidavits from the Freedom of Information and Privacy Co-ordinator (the Co-ordinator), the Office Manager of the ACT (Adult Computer Training) Centre, the Secretary to the Superintendent of Employee Services, the Supervising Principal of Adult and Continuing Education and the Manager of Accounting. In each affidavit, the affiant outlines the steps he or she took in searching for responsive records. In addition, the Board provides a copy of the Affidavit of Documents relating to the appellant's civil action.

The Co-ordinator provides a breakdown of the records referred to in the Affidavit of Documents and indicates how they were treated in the access request. In some cases the records have been withheld under section 19. In other cases, the appellant has already received copies. The Co-ordinator indicates that some records identified in the Affidavit of Documents do not contain the personal information of the appellant and were not considered responsive to this request.

Having reviewed the representations of the parties, I am satisfied that, in the circumstances of this appeal, the Board has taken all reasonable steps to locate any records which would respond to the appellant's request and I find that the search conducted by the Board was reasonable.

ORDER:

I uphold the decision of the Board.

Original signed by: _____
Laurel Cropley
Inquiry Officer

July 19, 1994