



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-658

Appeal M_9500485

The Board of Education for the City of Hamilton



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Board of Education for the City of Hamilton (the Board) received a request for copies of two reports of discussions or meetings between named employees of the Board and local officials of a teacher's union. These discussions and/or meetings pertain to grievance matters in which the requester is involved.

The Board responded to this request and advised the requester that no records were created by Board employees regarding the events in question, and, accordingly, no records exist which would be responsive to the request. The requester appealed this decision.

A Notice of Inquiry was provided to the Board and the requester (now the appellant). Representations were received from the Board only. The Board's representations consist of an affidavit sworn by the Manager of Employee Relations, who is also the Freedom of Information and Privacy Co-ordinator for the Board (the Manager). The sole issue to be determined is whether the Board's search for responsive records was reasonable in the circumstances of this appeal.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which she is seeking and the Board indicates that 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 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 to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

In her affidavit, the Manager indicates that she contacted the two Board employees identified by the appellant. Both individuals indicated that they did not make notes of the discussions or meetings. In addition, both employees reviewed their files pertaining to this issue and confirmed and no records exist with respect to either discussions held or meetings attended.

Having reviewed the affidavit of the Manager, I am satisfied that the efforts made by the Board to determine whether it might have records responsive to this request were reasonable in the circumstances.

ORDER:

The Board's search for records was reasonable and this appeal is denied.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ November 24, 1995