



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

# ORDER P-843

Appeal P-9400431

Ministry of Education and Training



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## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Ministry of Education and Training (the Ministry) for a copy of his application and contract with jobsOntario. The Ministry asked for and obtained clarification of the request. Having determined that the Peel Board of Education had a greater interest in the records, the Ministry transferred the request pursuant to section 25(2) of the Act, and advised the requester accordingly. The requester appealed the Ministry's decision on the basis that records should exist.

The sole issue in this appeal is whether the Ministry's search for records responsive to the appellant's request, prior to the transfer of the request, was reasonable in the circumstances of this appeal.

Notices of Inquiry were provided to the Ministry and the appellant. Representations were received from the Ministry only.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

In its representations, the Ministry submits that upon receipt of the request, it determined that it did not have sufficient detail to identify the record(s) requested. The Ministry obtained clarification from the requester which confirmed that the information sought was an application with jobsOntario which was likely in the custody and control of a specific jobsOntario Training Broker (Peel Board of Education). The Ministry submits that because records relating to the jobsOntario Training program are maintained by individual brokers, as explained below, a search would not normally be conducted by the Ministry. However, in this particular case, the Ministry conducted a search for responsive records prior to transferring the request to the Peel Board of Education. No responsive records were located.

The Ministry explains that the jobsOntario Training program is delivered by a variety of organizations which operate as brokers who have entered into contracts with the Ministry. These agreements provide that the Ministry will reimburse the broker for eligible costs incurred in operating the program. Under the terms and guidelines of the contract, the broker is free to enter into fee for service arrangements with other organizations for specific services such as training or the development plans. The Ministry states that the broker deals directly with the client and that applications to participate in the jobsOntario Training program are handled directly by the broker. The approval of the Ministry is not required for the broker's agreements with other organizations nor is it required for individual applications. The Ministry submits that there is no specific reporting requirement unless there is a potential conflict of interest and that files and records under the program are maintained by the individual brokers.

Where the requester provides sufficient details about the records which he is seeking and the Ministry indicates that such records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records that are responsive to the request. The Act does not require the

Ministry 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 Ministry must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

I have carefully reviewed the evidence before me and the representations of the Ministry. I accept the position of the Ministry and I find that the search undertaken by the Ministry for responsive records was reasonable in the particular circumstances of this appeal.

**ORDER:**

I uphold the decision of the Ministry.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ January 20, 1995