



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

# ORDER M-596

Appeal M\_9500220

The Board of Education for the City of Hamilton



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## **NATURE OF THE APPEAL:**

The Board of Education for the City of Hamilton (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to statistics and information maintained by the Board concerning its "sexual harassment and gender bias complaints, policy and practice" as well as the "outcomes/resolutions" of any such complaints. The requester is a former occasional teacher with the Board.

The Board advised the requester that records responsive to her request, specifically statistical information about sexual harassment and gender bias complaints and their ultimate dispositions, are not compiled or distributed by the department which handles these matters. Accordingly, the Board advised the appellant that no responsive records exist. The requester appealed this decision.

A Notice of Inquiry was provided to the Board and to the appellant. Representations were received from both parties. The sole issue to be determined in this appeal is whether the Board's search for records responsive to the appellant's request was reasonable in the circumstances.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Board indicates that such a record does 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 record does 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.

The Board has provided an explanation of its efforts to clarify the appellant's request and to locate records which are responsive to her request. As all complaints of sexual harassment or gender bias are directed to the Board's Employment Equity Co-ordinator, this individual was asked to perform a search for records responsive to the request. This search failed to locate any responsive records. The appellant was advised during the mediation stage of the appeal that statistical reports on the number of such complaints, and the resolution of such complaints are not compiled by the Board's Employment Equity office.

The appellant has not provided any information as to why she believes that responsive records should exist.

I have considered the representations of the parties and I am satisfied that no records exist which would be responsive to the appellant's request. Accordingly, I find that the Board's search for responsive records was reasonable in the circumstances of this appeal.

ORDER:

I uphold the Board's decision that responsive records do not exist.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_  
September 22, 1995