



**Information and Privacy
Commissioner/Ontario**

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

ORDER P-1218

Appeal P-9500739

Ministry of Education and Training



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

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

Web site: <http://www.ipc.on.ca>

416-326-3333

1-800-387-0073

Fax/Téloc: 416-325-9195

TTY: 416-325-7539

<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Education and Training (the Ministry) received a request for statistical information relating to the employment of teachers by the Board of Education for the City of Hamilton (the Board) for the period January 1, 1985 to November 11, 1995, (the date of the request). Specifically, the requester sought access to statistics on:

- (a) The number of Letters of Standing granted or reported.
- (b) The number of Letters of Permission granted or reported.
- (c) The number of Permanent Teachers' Contracts granted or reported.
- (d) The number of Probationary Teachers' Contracts granted or reported.
- (e) The number of Continuing Education Teachers' Contracts granted or reported.

In addition to the statistical information referred to above, the requester also indicated in her request that she would like a copy of the Ministry's Directory of Records, if available.

The Ministry responded by indicating to the requester that no records exist in response to her request as the Ministry does not maintain statistical information in the format requested. The requester (now the appellant) appealed this decision. As mediation was not successful in resolving the issues in this appeal, a Notice of Inquiry was sent to the Ministry and the appellant. Only the Ministry submitted representations.

DISCUSSION:

EXISTENCE OF RECORDS

In most cases, where an institution claims that no records exist which are responsive to the request, the issue to be determined is the adequacy of the institution's search for the records. In this appeal, the issue is somewhat different, given the nature of the information requested and the Ministry's explanation as to why the records do not exist.

The Ministry indicates that information about Ontario teachers is stored in one Ministry database (the Educators database), with two distinct sections (for Employment and Qualifications) which are maintained separately.

Letters of Standing and Permanent Letters of Standing

The Ministry explains in detail the nature and extent of the search which it conducted for records responsive to the request and the reasons why it concluded that no records exist. This explanation was reproduced in the Notice of Inquiry and shared with the appellant. The Ministry indicates that there is no existing computer program to produce statistics with respect to Letters of Standing for the Board's teachers for the years requested by the appellant. It further

indicates that there is no existing computer program to produce statistics with respect to Permanent Letters of Standing (Permanent Teacher's Contracts) for the years 1985 to 1993. The Ministry also indicates that from 1993 to the present, Permanent Letters of Standing existed in paper form, filed by year. There is, however, no separate folder containing Letters of Standing for only the school board requested.

In addition, the Ministry submits that while it may be possible to identify which teachers are employed by the Board from the "employment" section of the Educators Database, for a defined period of time each year, Letters of Standing and Permanent Letters of Standing for the years 1985 to 1993 are stored in the "qualifications" section of the Educators Database. According to the Ministry, this section of the Database only tracks a teacher's most current qualifications and school board affiliation and once the existing information is updated, the previous information relating to the qualifications and affiliations is deleted. Historical data regarding teacher qualifications is not retained by the Ministry and, it is not, therefore, possible to extract this information for the period requested (1985-1995) by the appellant.

In reviewing the representations of the Ministry on this issue, I accept that the qualifications section of the Educators Database does not contain the historical data sought by the appellant relating to Letters of Standing for the Board's teachers. I also accept the Ministry's explanation that the historical data relating to Permanent Letters of Standing for the years 1985 to 1993 sought by the appellant cannot be retrieved through the qualifications section of the Educators Database.

The Ministry further submits that it does not have paper copies of Permanent Letters of Standing with respect to the Board teachers. According to the Ministry, this is because correspondence and documentation submitted by each teacher is placed in their individual files which are maintained by the Teacher Certification and Information Services Unit (TCIS) of the Ministry of Education. This unit does not categorize the files which it maintains by school board. Based on the representations of the Ministry, I am prepared to accept that it does not have any paper records of Permanent Letters of Standing for the years 1993 to the present.

I find that the Ministry is unable to retrieve the statistical information regarding Letters of Standing and Permanent Letters Of Standing which was requested by the appellant.

Letters of Permission

The Ministry submits that Letters of Permission are available in paper form from 1991 to the present.

In its submissions, the Ministry stated that Letters of Permission are stored in two file boxes by Board. According to the Ministry, there is also an indicator in the teaching Staff Report submitted with the September Board Reports to the Ministry which also mentions those teachers who are qualified through a Letter of Permission.

The Ministry further explains that the indicator for teachers employed on a Letter of Permission was only required to be filed by school boards during the years from 1985 to 1988 and again since September 1995. However, the Ministry acknowledges that it may be possible to identify

the number of the Board's teachers who had Letters of Permission in the month of September for these years by consulting the September Board Reports for each year which are filed with the Ministry.

The Ministry conducted a search at its Central Ontario Regional Office (which includes the Board) in order to determine whether there were any Letters of Permission filed by the Board in 1993/94 to 1995/96. I will order the Ministry to provide the appellant with the results of that search, bearing in mind that the appellant is seeking statistical information only. The Ministry does not indicate in its representations that it conducted a search for Letters of Permission for the years 1985 to 1988.

Based on the submissions made by the Ministry, I find that its search for records responsive to that portion of the request dealing with the number of Letters of Permission filed by the Board for the years 1993/94 to 1995/96 was reasonable. The Ministry acknowledges that it may be possible to identify a number of the Board's teachers who had Letters of Permission from 1985 to 1988 but it has not conducted a search for Letters of Permission for this period. I find that the Ministry has not conducted a reasonable search for these records and I will order it to do so.

Probationary & Continuing Education Contracts

The Ministry submits that Probationary and Continuing Education Contracts are contracts which are concluded between the employer and its employees. Since the Board is the employer, the Ministry submits that these records, and statistical information about them, would logically be with the Board and not the Ministry.

Based on the submissions made by the Ministry, I find that it does not have the requested statistical information concerning Probationary and Continuing Education Contracts.

Directory of Records

In its submissions, the Ministry indicates that it has a listing in its Directory of Records with respect to Letters of Permission. The Ministry submits that it does not, however, have a listing in its' Directory of Records for the other categories of information requested by the appellant, but that they may exist with the Board. The listing does not include any statistical data. The appellant may obtain these Directories, as they are publicly available at the Ontario Government Bookstore or any Ministry Reading Room. I will order the Ministry to advise the appellant of the nearest location to her where its' Directory of Records is available for public viewing.

Personal Information

The Ministry submits that in instances where a record exists or may exist in response to the appellant's request, that the record(s) would contain the personal information of the teachers in question and disclosure of these records would constitute an unjustified invasion of their personal privacy. Since the appellant is only seeking **statistical** information, I find that the portion of the Ministry's representations which deal with this issue is not relevant in the circumstances of this appeal.

ORDER:

1. I uphold the decision of the Ministry with respect to the following categories of information:
 - (a) Letters of Standing and Permanent Letters of Standing for the years requested;
 - (b) Probationary and Continuing Education Contracts.
2. I order the Ministry to communicate to the appellant, in writing, the results of its search for statistical information on the number of Letters of Permission filed by the Board between 1993/94 and 1995/96. I also order the Ministry to advise the appellant as to the location nearest to the City of Hamilton where the appellant might obtain access in person to its Directory of Records.
3. I order the Ministry to conduct a further search for records relating to Letters of Permission filed by the Board for the years 1985 to 1988.
4. If, as a result of this further search, the Ministry identifies any responsive records, I order the Ministry to provide the appellant with the number of Letters of Permission filed by the Board for the years 1985 to 1988.
5. In order to verify compliance with this order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 2 and, if applicable, the correspondence referred to in Provision 4 by July 29, 1996. The copies of these documents should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ June 28, 1996