



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-1126

Appeal M-9800063

Ottawa-Carleton District School Board



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NATURE OF THE APPEAL:

The appellant attended school in the Ottawa area in the 1950's. He submitted a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the Ottawa-Carleton District School Board (the Board) for the following:

[a] copy of the entire contents of the following documents, whether held in original or only on some form of electronic or photographic backup medium;

DOCUMENTS: (a) Student Record Folder for student [the appellant]

 (b) Office Index Card for student [the appellant]

PERIOD: Covering the entire period from January through December of 1956 at whatever school or schools attended in Ottawa, including possibly but not necessarily as recollected ---

* Jan.-June 1956 Grade 4, Hopewell Ave. P.S., Hopewell Ave at Bank St., Ottawa

* Sep.-Dec 1956 Grade 5, Osgoode St. P.S., Osgoode at Henderson St., Ottawa

The Board provided the appellant with information from two schools not mentioned in the request and advised him that no information responsive to the request was found by three schools, including the two schools mentioned in the request. The appellant appealed the Board's decision and posed four questions which he asked the Board to answer. With the appellant's consent, this letter was forwarded to the Board to assist it in responding to the appellant.

The Board conducted a second, more extensive search. No additional information was found. The Board also responded to the appellant's four questions.

The appellant then wrote to this office expressing his lack of satisfaction with the Board's second search and its response to his questions. He also posed additional questions. A copy of this letter was also forwarded to the Board. It appears that the Board has not responded to this letter.

This office provided a Notice of Inquiry to the appellant and the Board. Representations were received from both parties.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Board indicates that further 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 further 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.

The appellant provides extensive representations on what, in his view, would constitute a “reasonable search” in the circumstances of this appeal. He also suggests areas which the Board should have searched. The appellant attached the cover of a report card from one of the schools referred to in the request to his letter of appeal as evidence that he attended that school. He does not have complete recollection of the schools attended however, and, in my view, it is possible that he never attended the other school referred to in his request.

The Board indicates that it has made several efforts to locate responsive records and has been in contact with the appellant throughout this process. The Board states that each of the schools mentioned in the appellant’s request was contacted to search for any records regarding the appellant. The Board notes that one of the schools had been closed and that all records from that school were transferred to another school. As part of this search, all records storage areas were searched. The Board indicates further that, although records are normally filed alphabetically, close attention was paid to the possibility of misfiling. The Board indicates that during the initial search, no records were found at the schools referred to in the request although records pertaining to the appellant were located at other schools in the Ottawa area.

It is the Board’s belief that records at the closed school which existed prior to the early 1970’s were destroyed, although no record detailing their destruction could be found.

The Board indicates that, during its second search for responsive records, it expanded the areas of search to all other feeder schools for the high school attended by the appellant. No additional records were located.

The Board explains the past and present practice regarding the two types of files at issue in this appeal, that is, the OSR and the office index card. In this regard, the Board indicates that both records are created when a student is registered in a school. The OSR follows the student throughout his or her schooling career, however, the office index card is retained at the school of departure, and the receiving school creates its own.

The Board advises that prior to 1972, there were no Ministry of Education (the Ministry) or Board guidelines regarding the administration or retention of these or other records relating to students. Therefore, schools and Boards were at liberty to dispose of records as they saw fit. In 1972, the Ministry introduced guidelines which required the retention of these documents in a given school for a minimum of three years after the student’s retirement or graduation from that school. Following that, retention was at the discretion of the Board. Finally, in 1989, the current OSR Guidelines came into being. These guidelines require schools to retain documentation regarding a student for five years following retirement or graduation from

the school. In addition, Boards are required to retain the OSR folder, the Ontario Student Transcript and the office index card for a further 50 years.

I have considered the representations of the parties. I recognize that the records which the appellant is seeking are over 40 years old. The appellant has provided no evidence that he ever attended one of the schools and the Board has found no records relating to him at that school. The Board indicates that, although the other school was closed, it is aware of the location of the school to which the former school's records were sent. The Board's search at this school revealed that no records prior to the early 1970's exist.

Given the lack of guidelines regarding the retention of records held by schools and Boards during and following the appellant's attendance at schools in the Ottawa area, in my view, it would not be unreasonable to assume that records pertaining to him had been destroyed. I would point out that there was no Freedom of Information legislation in place at that time and therefore, no requirement that records be retained or that their destruction be documented.

In my view, the appellant's views regarding the extent to which the Board should go to determine whether the records exist are excessive. I am convinced that it would be extremely unlikely that any records would be located as a result of further searches. Accordingly, I find that the efforts made by the Board to locate responsive records were reasonable in the circumstances.

ORDER:

I find the Board's search for records to be reasonable and this appeal is dismissed.

Original signed by: _____

Laurel Cropley
 Adjudicator
 (formerly Inquiry Officer)

June 23, 1998