



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2605

Appeal PA07-284

Ministry of Health and Long-Term Care



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NATURE OF THE APPEAL:

This is an appeal under the *Freedom of Information and Protection of Privacy Act* (the *Act*).

On March 23, 2007, the requestor submitted a request to the Ministry of Health and Long-Term Care (the Ministry) and the Ministry of Children and Youth Services, for access to the following:

In August 2000, the Ontario Ministry of Health and Long-Term Care (MOHLTC) extended School Health Support Services (SHSS) to private religious schools (non-Catholic) and other private schools. These services are administered by Ontario's Community Care Access Centres. Please provide copies of:

1. All internal MOHLTC and/or Ministry of Children and Youth Services documents, memos and e-mail messages from the years 1999 to March 23, 2007 which review or deal with the issue of:
 - a) How funding should be approved and allocated for speech language pathology services or speech disorders in Ontario's private schools; and/or
 - b) Restricting funding for speech language pathology services or speech disorders in Ontario's private schools in a manner that would exclude language delays/disorders and/or speech disorders associated with a severe hearing impairment.
2. Any memos, letters, e-mails or directives from the MOHLTC and/or the Ministry of Children and Youth Services to the Community Care Access Centres (or to the persons responsible for the Community Care Access Centres) from 1999 to March 23, 2007, directing or instructing the Community Care Access Centres to exclude language delays/disorders or speech disorders associated with a severe hearing impairment from funding under the SHSS in Ontario's private schools.

The requestor indicates that the Ministry did not acknowledge receipt of his request, and kept in touch with him verbally. According to the requestor the Ministry repeatedly promised week after week to be in a position to issue an access decision.

Section 26 of the *Act* requires the Ministry to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Ministry is in a "deemed refusal" situation pursuant to subsection 29(4) of the *Act*. That provision states:

A head who fails to give notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

On July 26, 2007, the requestor filed an appeal as the Ministry still had not replied to his request under the *Act*.

On July 31, 2007, this office sent a Notice of Inquiry to both the appellant and the Ministry stating that the Ministry is in a deemed refusal situation. The Notice also stated that if a decision is not issued by August 15, 2007, I would be in a position to issue an order requiring the Ministry to provide its decision to the appellant.

On August 9, 2007, I was informed by the Ministry that the program areas were working hard to locate and assemble the responsive records and that the Ministry should be able to issue its decision by August 15, 2007.

On August 15, 2007, I was informed by the Freedom of Information Co-ordinator that responsive records were located and that she was waiting for approval and sign-off from the different program areas. She informed me that she was aiming to have the decision issued by end of week.

I contacted the Ministry on August 21, 2007, and inquired about the status of a decision letter. The Ministry could not provide a definite answer regarding when a decision letter would be issued. To date, the Ministry has not issued a decision regarding access to the information responsive to this request. To ensure that there are no further delays in processing this request, I am ordering the Ministry to issue a decision regarding access.

ORDER:

1. I order the Ministry to issue a final decision letter to the appellant regarding access to the records in accordance with the *Act* and without recourse to a time extension, no later than **August 29, 2007**.
2. In order to verify compliance with Provision 1 of this Order, I order the Ministry to provide me with a copy of the decision referred to in Provision 1 by **August 29, 2007**. This should be forwarded to my attention c/o Information and Privacy Commission/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8.

Nathalie Rioux
Intake Analyst

August 23, 2007