Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-2729

Appeal MA10-274

Ottawa-Carleton District School Board

May 1, 2012

Summary: The appellant requested records relating to her son's schooling and requested that a statement of disagreement be attached to his IEP. The board located responsive records and provided them to the appellant. The board also attached the statement of disagreement provided by the appellant, but made handwritten comments stating its disagreement with her position on the copy of the appellant's letter. The appellant appealed the decision claiming that additional records exist and took the position that the board erred in commenting on the copy of the statement of disagreement she submitted. With one exception, the board's search for responsive records was reasonable. The board is ordered to search for time sheets relating to emergency educational assistants. The board is also ordered to attach an unmarked copy of the appellant's statement of disagreement to her son's IEP.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 17, 36(2)(b).

OVERVIEW:

[1] The appellant submitted a request to the Ottawa-Carleton District School Board (the board) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to information relating to her son. Specifically, the request was for the following information:

- Records of my son's OSR for 2009/2010 school year.
- Records of my son's speech-language file from Dec. 1/2009 to July 2010.

- Records of my son's psychological file from January 2010 to July 2010.

- All information pertaining to Special Incidence Portion (SIP) fund for my son including allocation, distribution and records.

- All information pertaining to Emergency Educational assistants for my son including the school requests, emails, board responses, records.

[2] In addition, the request was for correction of personal information. In this regard, the appellant attached copies of three letters which she was seeking to have attached to her son's Individual Education Plan (IEP).

[3] With respect to the request for a copy of her son's Ontario Student Record (OSR) (part one of the request), the board advised the appellant that pursuant to the *Education Act*, she is entitled to view the contents of the OSR at her son's school and then identify the parts which she would like copied. The board also noted that the appellant had been provided with copies of the OSR on two previous occasions and declined to provide further copies pursuant to her access request.

[4] The board advised that no records exist relating to emergency educational assistants (part five of the request). The board provided the appellant with access to records relating to the remaining three parts of her request.

[5] Regarding her request for correction of personal information, the board advised that two of the three letters which the appellant had provided were already in her son's OSR. The board referred the appellant to the appeal process available to her under the *Education Act* if she wished to add any additional documents to her son's OSR.

[6] The appellant appealed the decision of the board to this office.

[7] At the intake stage of this appeal process, the board issued a revised decision relating to the appellant's request for copies of her son's OSR, as well as her request for corrections to information in her son's IEP.

[8] Specifically, the board advised the appellant that she can make arrangements to attend the board office to review the OSR.

[9] In addition, the board agreed to attach the three letters provided by the appellant to her son's IEP. As a result, the issue of correction of personal information appeared to be resolved.

[10] During the course of mediation, the appellant advised that she wishes to obtain access to copies of the relevant information in her son's OSR, as opposed to attending the board's office to view it. In addition, the appellant provided additional information relating to her belief that additional records exist.

[11] The board agreed to contact the employees referred to by the appellant and asked them to conduct searches for any additional records responsive to the request. The board subsequently advised that additional records were located. In correspondence dated November 10, 2010, the board issued an amended decision granting the appellant access to these additional records. In addition, the board provided the appellant with access to copies of documents in her son's OSR for the relevant period as set out in her request.

[12] After reviewing this information, the appellant advised the mediator that she continues to believe that additional records exist. As this issue could not be resolved, the appeal file was forwarded to the adjudication stage of the appeal process.

[13] During the inquiry into the appeal, I sought and received representations from both parties. The representations were shared in accordance with section 7 of the IPC's *Code of Procedure* and *Practice Direction* 7.

[14] In her representations, the appellant took issue with the manner in which the board "corrected" a document entitled the "Log of Parent/Guardian Consultation Staff Review/Updating." In particular, the appellant objects to comments made by the principal on the copy of one of her letters that was attached to the IEP. She believes that the letter should have been attached "as is". Accordingly, I included "correction" as an issue in the appeal and invited the board to address this issue in its reply representations.

[15] In this order, I find that with one exception, the board's search for responsive records was reasonable. I order the board to conduct a further search for time sheets relating to emergency educational assistants. I also find that the board should not have applied written comments on the copy of the statement of disagreement submitted by the appellant and I order it to attach an unmarked copy to the appellant's son's IEP.

ISSUES:

A: Did the board conduct a reasonable search for records?

B: Did the board attach a statement of disagreement in accordance with section 36(2)(b)?

DISCUSSION:

A: Did the board conduct a reasonable search for records?

[16] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17.[1] If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[17] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.[2] To be responsive, a record must be "reasonably related" to the request.[3]

[18] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.[4]

[19] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[5]

[20] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.[6]

[21] A requester's lack of diligence in pursuing a request by not responding to requests from the institution for clarification may result in a finding that all steps taken by the institution to respond to the request were reasonable.[7]

Representations

[22] The appellant has provided representations that address each part of her five-part request.

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[1] Orders P-85, P-221 and PO-1954-I.
[2] Orders P-624 and PO-2559.
[3] Order PO-2554.
[4] Orders M-909, PO-2469, PO-2592.
[5] Order MO-2185.
[6] Order MO-2246.
[7] Order MO-2213.

[23] The board submitted an affidavit sworn by its Freedom of Information Co-ordinator (FOIC), which set out the steps taken to search for records responsive to the appellant's request, as well as copies of all communications between the FOIC and the individuals who were asked to search for responsive records. In addition, the board provided representations and an affidavit sworn by its FOIC regarding searches that were conducted following receipt of the appellant's representations.

[24] I will address each part of her request separately, below.

Records of my son's OSR for 2009/2010 school year; Records of my son's speech-language file from Dec. 1/2009 to July 2010; Records of my son's psychological file from January 2010 to July 2010.

[25] In her representations, the appellant sets out the background regarding her request for this record, some of which is set out above. She acknowledges that the OSR was ultimately provided to her. However, she believes that a number of records are missing from the OSR and psychological file and alleges that they are being deliberately withheld. In particular, she believes that the following records or types of records should exist within the OSR:

- The Psychological Assessment (Development Profile-3) conducted by a named psychologist (the doctor). Her reason for believing that such a record exists is based on:
    - The doctor informed her of an assessment by e-mail;
    - The notes of the speech-language pathologist record the assessment;
    - She believes that the assessment was conducted as a precursor to transferring her son from one program to another; and
    - The FOIC refers to a responsive record as "informal assessments" but has not requested the formal assessments from the doctor.

- The reports of classroom observations between January 2010 and July 2010 made by the doctor and a learning support consultant (the consultant). The reasons for her belief that records exist is based on:
    - The doctor and consultant informed the appellant of their existence at an IEP/IPRC meeting; and
    - Board policy requires reports on classroom observations of a student;
    - The appellant was provided with copies of e-emails for this time period but not reports.
- The appellant provided a copy of a document entitled "Special Equipment Claim (SEA) Memorandum" dated October 2007 to her representations, which indicates that certain documents (ie. purchase orders and invoices) are to be placed in her son's OSR. She indicates that she wishes to be provided with all of these documents from 2001 to 2010.

- She also believes that documentation relating to the shortening of her son's school day should also be in her son's OSR or perhaps in a Corporate Records file.

- The appellant believes that there should exist at least five different versions of her son's IEP for the 2009-2010 school year. She believes these different versions exist because "school staff were arbitrary (*sic) modifying information…."

[26] In his initial affidavit, the FOIC indicates that in responding to the appellant's request, he contacted the doctor and the consultant. He then met with the doctor, the speech-language pathologist and the consultant to confirm that no additional records existed in their possession. After communicating with the mediator assigned to this appeal for additional clarification, the FOIC again met with the doctor and reviewed the documents in her possession for the specific reports and notes identified by the appellant. The FOIC confirmed that no records exist in the doctor's personal files. However, he noted that additional records were located that were responsive to the request as clarified by the mediator. He confirms that these records were subsequently sent to the appellant.

[27] The FOIC indicates that he also met with the speech-language pathologist and consultant again and reviewed their personal files. He located copies of electronic notes of a meeting and visits to the appellant's son's class in the files of the speech-language pathologist, and 15 records in the files of the consultant that he deemed to be responsive to the clarified request, and these records were provided to the appellant.

[28] The FOIC affirms that he then requested the principal of the appellant's son's new school to have copies of "all documents contained in the OSR covering the 2009-2010 school year" copied and provided to the appellant.

[29] In his reply affidavit, the FOIC denies emphatically that the board is deliberately withholding records from the appellant. He confirms that "at no time has the Appellant [named] been denied access to her son's [OSR]" and reiterates that the appellant may, at any mutually agreeable time, attend her son's school to review his OSR.

[30] The FOIC indicates that after reviewing the appellant's representations, he again met with the doctor, the speech-language pathologist and the consultant. He provided them with a copy of the appellant's representations and specifically asked them if they have any records that might be relevant.

[31] The doctor confirmed that she did not complete a Developmental Profile-3 for the appellant's son. Referring to the e-mail that she sent to the appellant (which the appellant had attached to her representations), the doctor pointed out that the e-mail clearly referred to an informal evaluation based on observations. She maintained that this did not constitute a formal assessment. She notes that although a meeting was

held between the consultant, the school principal and the appellant relating to the transfer of the appellant's son to a different program, no decision was made at the meeting and no assessment was conducted.

[32] The speech-language pathologist and consultant both confirmed that they had no additional records beyond those already provided. With respect to comments made by the speech-pathologist in her notes about an assessment, she confirms that the statement was incorrect as it was based on the mistaken belief of the appellant's son's teacher that an assessment was to be done. Accordingly, she confirms that no additional records exist relating to that assessment because the assessment was not done.

[33] With respect to the SEA claims, the FOIC states that after reviewing the appellant's representations, he contacted the System Principal for Learning Support Services (system principal) and a named Learning Support Consultant – Assistive Technology (assistive learning consultant). He indicates that they advised him that the appellant may not fully understand the process by which assistive technology equipment is provided to students. He then provides an explanation of the process:

> Equipment purchased through SEA is used to provide student accommodations that are required and essential to access the curriculum. The students have access to the equipment that has been partially funded through the SEA claim process. Equipment such as computers and MP4 players are normally purchased through bulk process. For example, computers are purchased in quantities of one hundred or more at-a-time by the [board's] Business Learning Technology Department. The Ministry SEA funds are used to cover a portion of the purchases. In most cases the Ministry funding does not cover the full amount of the purchase and the shortfall is made up from the global [board] special education budget. The student has access to the equipment for a period of time based on need and availability. For example, the computer and MP4 player assigned to [the appellant's son] were items that had been previously assigned to, and used by, another [board] student. Only in a case where there is the need for a student-specific piece of equipment would an individual order be placed.

[34] With respect to the SEA memorandum referred to by the appellant in her representations, and any attached purchased order(s) and invoices(s) from 2001 to 2010, the FOIC indicates that when the current year documents are ready they will be made available to the appellant. He notes that previous years' documents are held in storage and a further search for them will have to be conducted. He appears to take the position that this may constitute a new request and will be subject to fees and an access decision.

[35] The FOIC states further that he contacted the principal to determine whether she had documents relating to the shortening of the appellant's son's school day. He indicates that the principal advised that she had no documents relating to this matter. She confirmed that any documents would be in the appellant's son's OSR. Other than that, the FOIC indicates that one document relating to the matter was located. This document consists of an e-mail sent to the appellant by a named superintendent dated Tuesday, April 20, 2010 at 11:11:03 AM. The FOIC indicates that he presumes that the appellant has a copy since it was sent to her, but if she wishes a copy of this e-mail, she should contact the board and it will be provided to her.

[36] Finally, regarding additional variation of the appellant's son's IEP's, the FOIC reiterates that the OSR was searched three times in response to this request and that the appellant has been provided with everything in it.

Findings

[37] Based on the submissions made by the board and the descriptions given of the involvement of the appropriate individuals in responding to the appellant's request, I am satisfied that the board has conducted a reasonable search for records located in the appellant's son's OSR, as well as in his psychological and speech-language files. With respect to the specific records that the appellant is seeking, I am satisfied that records relating to a formal assessment do not exist, because such an assessment was not done. The board has indicated that records pertaining to the SEA are not currently included in the OSR, but will be made available to the appellant when they are ready. Otherwise, I am satisfied that reasonable efforts have been made to search locations that would reasonably be expected to contain responsive records and to contact the appropriate individuals in the course of conducting its search. Accordingly, I uphold the board's search for records in the appellant's son's OSR, psychological and speech-language files.

[38] With respect to the appellant's request in her representations that she receive SEA documents dating back to 2001, it is clear from the appellant's request set out above that she is only seeking information for a particular school year. Accordingly, I find that the amendment to the time frame for the SEA documents constitutes a new request and the board is entitled to treat it as such.

All information pertaining to Special Incidence Portion (SIP) fund for my son including allocation, distribution and records.

[39] The appellant acknowledges that she has received a copy of the SIP Application submitted by the board on her son's behalf, but believes additional records should exist. In particular, she indicates that there should be documents relating to the transfer of the SIP fund from the Ministry of Education, including how the money was allocated and disbursed for her son's special needs. The appellant identifies three board

employees who were responsible for the allocation of disbursement of EIP funding. She alleges that one of the named individuals is refusing to provide the information and that the board did not request it from the other two individuals.

[40] In his initial affidavit, the FOIC states that he contacted one of the named individuals and she responded to him that all of the information had already been provided to the appellant. The FOIC identifies a fourth board employee who he states was responsible for administering the SIP funds. The FOIC attached an e-mail from this individual to his affidavit in which she states that she provided all documentation to the appellant's son's principal and she believed that it was sent home with her son. The e-mail chain indicates that she will resend the documents to the FOIC. The FOIC confirms that he received the documents and that they were provided to the appellant.

[41] The appellant takes the position that the fourth individual was only responsible for collecting her son's documents and completing forms for the SIP application and that the three individuals she identified should be contacted because she believes they have the records she seeks.

[42] In response, the FOIC affirms that he again contacted the system principal, who stated her belief that the appellant may not fully understand the nature of the SIP funding process. He then explains this process:

> The process involves the school board delivering an application to the Ministry of Education on behalf of all students who are determined to be eligible for the funding. [The appellant's son's] SIP application has been produced to the Appellant in response to her original request.
>
> The Ministry of Education reviews the applications submitted by the school board and determines which of those applications is eligible for funding. The maximum amount available per student is $27,000.00. After the Ministry determines eligibility, it calculates the total amount to be paid for all students whose applications have been received and approved. The Ministry sends one cheque to the school board for the total amount of all students whose applications are determined to be eligible for funding. The cheque is accompanied by a letter to the Director of Education…

[43] The FOIC points out that the funding amounts for each year are public records, available on its website. The FOIC states that if the appellant wishes a copy of the Ministry's letters, it is prepared to provide her with copies, at her request. The FOIC continues:

> SIP funds are used by the school board to cover a portion of the costs associated with the operation of its special education services. These services include the cost of special education teachers, educational

> assistants assigned to special education classes and support from other specialists such as psychologists and speech and language professionals. SIP funding, even at the maximum amount of $27,000.00, covers only a portion of the cost of providing services to a student such as the Appellant's son. The funds are applied against costs already incurred by the school board in providing the special education services for the exceptional pupils.

Findings

[44] It is clear from the appellant's submissions that she believes that specific documentation should exist regarding the SIP funding allocations for her son. According to the explanation provided by the FOIC, the funds are based on a per person determination, but are provided by the Ministry of Education as one payment based on the total number of eligible students and are allocated by the board, not on the basis of individual expenses, but more globally within the entire special education budget. I am satisfied, based on the explanation provided by the FOIC, that no specific SIP records exist relating to the appellant's son apart from those already provided to her. My finding is reinforced by the searches that were conducted of the OSR and other files pertaining to the appellant's son.

All information pertaining to Emergency Educational assistants for my son including the school requests, emails, board responses, records.

[45] In his initial affidavit, the FOIC indicates that he contacted the system principal in order to determine whether she had records responsive to this part of the request. The FOIC attached a response from the system principal in which she stated that there was no written correspondence relating to the emergency educational assistant services for the appellant's son class during the spring of 2010.

[46] The appellant submits that the requested information exists and that it has not been provided to her. She notes that during the spring of 2010, her son had two emergency educational assistants. She states further:

> In spring 2010 the [principal] informed me that she had not completed any [board] forms to request the first Emergency EA; instead, she sent an e-mail request to [named] Vice-Principal of Special Education [the vice-principal]. [The principal] insisted that she did not save that e-mail and advised me to contact the board. I believe [the principal] copied that e-mail request to [the system principal] and other members of the Autism Team including the [speech-pathologist]. In her notes prepared for [the FOIC], [the speech pathologist] stated: '**I do think I copied the email** about the Emergency EA in my speech file. So it should be there when it is located.'[emphasis in the original]

> Furthermore, [the vice-principal] indicated in her e-mail of September 29, 2010 that the school was granted the Emergency EA 'support without requiring the completion of a form to expedite the request'… She also stated that [the system principal] will have school's requests from last year.'

[47] The appellant believes that the system principal has copies of the requests made by the school. She points out further that the board could not appoint and pay for emergency educational assistants without documentation.

[48] In response, the FOIC indicates that he again contacted the principal, the system principal and the vice-principal. He indicates that they all confirmed that all responsive documents in their possession have been provided to the appellant.

[49] The FOIC notes further that "to the extent that the [board] 'appointed and paid wages to these Emergency Educational Assistants'…the only record would be the time sheets submitted to the [board's] payroll department.

Findings

[50] As I indicated above, the *Act* does not require the board to prove with absolute certainty that further records do not exist. Rather, it must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records. Further, in order to be responsive, the record must reasonably relate to the request.

[51] Although the appellant has provided documentation which suggests that certain documents should exist, I do not find this to be determinative of the issue in the circumstances. In this case, the references to additional documents were somewhat vague, for example, one individual said "I think I copied" and "it should be" in a particular file. In response to the information provided by the appellant, the FOIC approached the individuals who either would have had responsive records, or who would be the most knowledgeable in determining their location. With one exception, I am satisfied that the board has conducted a reasonable search for records responsive to the appellant's request, in that experienced employees knowledgeable in the subject matter of the request expended reasonable efforts to locate records which are reasonably related to the request.

[52] In responding to the appellant's representations, the FOIC identified a particular record or type of record, time sheets of the emergency educational assistants. Although a location was mentioned, it is not clear whether a search was conducted for these records and/or a decision was made regarding access. In my view, these records are reasonably related to the appellant's request as set out above. Accordingly, I will order the board to conduct a search in its payroll department for time sheets relating to

the emergency educational assistants that assisted the appellant's son during the spring of 2010.

B: Did the board attach a statement of disagreement in accordance with section 36(2)(b)?

[53] The essence of the appellant's objection is that the Board should not have placed a handwritten note on the letter that was attached to the appellant's son's IEP. It would appear that by attaching the appellant's letter to the IEP, rather than correcting the document, the Board has agreed to attach the appellant's statement of disagreement to the record, in accordance with section 36(2)(b). The question raised by the appellant is whether the Board is entitled to attach its own statement of disagreement to that submitted by the appellant?

[54] Section 36(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 36(2) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information. Sections 36(2)(a) and (b) state:

> Every individual who is given access under subsection (1) to personal information is entitled to,
>
> (a) request correction of the personal information where the individual believes there is an error or omission therein;
>
> (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

[55] I note that in this appeal, there is no suggestion that the request does not pertain to personal information to which the appellant has been given access.

[56] Where the institution corrects the information or attaches a statement of disagreement, under section 36(2)(c), the appellant may require the institution to give notice of the correction or statement of disagreement to any person or body to whom the personal information has been disclosed within the year before the time the correction is requested or the statement of disagreement is required.

Preliminary matter

[57] The appellant has made significant representations on this issue and has included information that she believes should be corrected.

[58] I have reviewed the appellant's request to the board. In it, she specifically requests that two letters be attached. She goes on to discuss previous correction requests that she had made, but which were not done, and then asks that the third letter of disagreement be attached to the IEP.

[59] In order for me to address a correction request pursuant to section 36(2)(a), the appellant must first ask the board to make the correction and then she must appeal the board's refusal to make the correction. The appellant did not do so in this appeal. Rather, she asked the board to attach a statement of disagreement. Accordingly, I will only address whether the board was in compliance with section 36(2)(b) in this appeal in the manner in which it attached the statement of disagreement to the appellant's son's IEP. I note, however, that in responding to the appellant's representations, the board states:

> [T]here may be errors with respect to dates of specific meetings as well as the identities of individuals who attended the meetings. As the [board] has no records that would indicate the Appellant's submission is incorrect, it is prepared to amend the records to reflect the dates etc. in accordance with the Appellant's information.

Section 36(2)(b)

[60] As I indicated above, the form of correction that the appellant requested of the board was for the board to attach three letters to her son's IEP. During mediation, the board attached the letters to the IEP, and it appeared at that time that the correction issue had been resolved.

Requirement that a statement of disagreement be attached to the information

[61] Upon request, the board must attach a statement of disagreement to the information reflecting any correction that was requested but not made. An appellant must first ask for a correction, and then ask that a statement of disagreement be attached to the information, before this office will consider whether a statement of disagreement should be attached.

[62] As I indicated above, the appellant had requested the correction and that request appears to have been denied. She then provided a letter to the board and requested that her statement of disagreement be attached.

[63] The appropriate process has clearly been followed and it appears that the matter should be settled. However, in attaching the statement of disagreement, the principal of the appellant's son's school wrote a note on the copy of the statement which

disagrees with the appellant's statement. In explaining why this was done, the board states:

> [The board] submits that it should not be required to correct the statements of 'outcomes' contained in the Log of Meetings. As described in the attached affidavit, the corrections the Appellant seeks are part of an ongoing disagreement between the [board] professional staff and the Appellant as to the appropriate 'outcomes.' The [board] submits that any order requiring correction of these 'outcomes' would amount to an overruling of the observations of professional educators and a re-writing of the document to reflect the Appellant's preferred version. By agreeing to include the Appellant's version in the OSR the [board] has acknowledged that there is a disagreement and that the parent has a different view of the 'outcomes.' The [board] submits that [the principal's] handwriting on the Appellant's version is necessary in order to ensure that anyone reading the document understands that it does not reflect the observations of [board] staff.

[64] The affidavit sworn by the board's access and privacy co-ordinator expands on a conversation he had with the school principal regarding the disagreement between the appellant and the board's professional staff.

[65] In my view, the board has misconstrued the purpose of including section 36(2)(b) in the *Act*. This section anticipates that a correction request will be made. Previous orders of this office have determined that in order for an institution to grant a request for correction, all three of the following requirements must be met:

1. the information at issue must be personal and private information; and

2. the information must be inexact, incomplete or ambiguous; and

3. the correction cannot be a substitution of opinion.[8]

[66] Where a requester has an opinion of a matter that differs from the institution, the institution will not be required to correct the information. Section 36(2)(b) provides an alternative mechanism for an individual to have his or her opinion included in a record maintained by a government body. Indeed, section 36(2)(b) contemplates that there is no agreement.

[67] In this case, the statement of disagreement is the appellant's "official" document, which she, following proper procedures, requested the board to attach to her son's IEP pursuant to section 36(2)(b) of the *Act*. Section 36(2)(b) clearly states that she can

[8] Orders 186 and P-382.

require that it be attached. There is nothing in section 36(2) that permits the board to alter the document in order to reflect its disagreement with the appellant's opinion, even where the alteration consists of only a handwritten comment on one corner. Accordingly, I find that the board did not attach the appellant's statement of disagreement in accordance with section 36(2)(b) of the *Act*. The appellant is entitled to require the board to attach her unadulterated statement of disagreement to her son's IEP, and I will order to the board to do so.

[68] I understand that the board has had an on-going disagreement with the appellant regarding her son's education, and is concerned that the appellant's comments will be construed as reflecting an agreed approach. In this case, as in any situation where a statement of disagreement is attached to a document, the board may attach a cover document to the statement in order to clearly identify that the attached letter is a "statement of disagreement" made by the appellant pursuant to section 36(2)(b) of the *Act*.

ORDER:

1. I order the board to conduct a search for time sheets relating to the emergency educational assistants that assisted the appellant's son during the spring of 2010.

2. If the board locates responsive records, I order the board to issue an access decision in accordance with the access provisions of the *Act*, using the date of this order as the request date.

3. I find the board's search for other responsive records was reasonable and dismiss the appeal regarding them.

4. I order the board to attach an unmarked copy of the appellant's statement of disagreement to the appellant's son's IEP.

Original signed by: May 1, 2012
Laurel Cropley
Adjudicator