Information and Privacy Commissioner,
Ontario, Canada

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

# ORDER PO-3194

Appeal PA11-357

Algonquin College

April 29, 2013

**Summary:** The appellant is seeking records from Algonquin College relating to a report on human resources that was prepared by a consulting firm in 2007-2008. The college denied access to 16 records and claimed that they are excluded from the scope of the *Act* under section 65(6). The appellant appealed the college's decision to deny him access to these records under section 65(6) and also claimed that the college had not conducted a reasonable search for responsive records, particularly for a contract between itself and the consulting firm.

In this order, the adjudicator finds that the 16 records at issue are excluded from the scope of the *Act* under section 65(6)3. On the issue of whether the college conducted a reasonable search for responsive records, he finds that the contract sought by the appellant would be excluded from the scope of the *Act* under section 65(6)3. Consequently, no useful purpose would be served in ordering the college to conduct further searches for that record. Moreover, he finds that the college provided ample evidence to show that it conducted a reasonable search for responsive records.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, ss. 24, 65(6) and 65(7).

**Orders and Investigation Reports Considered:** Orders M-941, MO-1412, P-1369, PO-2105-F, PO-3004 and PO-3029-I.

**Cases Considered:** *Ministry of the Attorney General and Toronto Star and Information and Privacy Commissioner*, 2010 ONSC 991 (Div. Ct.).

## OVERVIEW:

[1] The appellant is a lawyer who submitted a request to Algonquin College (the college) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the following records:

> All documents related to [a named consulting firm's] report on human resources, which was prepared for the college in or around 2007-2008, including but not limited to:
>
> a) All contracts between [the college] and [the consulting firm];
>
> b) All proposals, discussion papers, and draft reports provided by the [consulting firm] to the college;
>
> c) The final report of the [consulting firm]; and
>
> d) All records, including reports, letters, emails, deck presentations, minutes, agendas, briefing notes, or other documents prepared by, for, or on behalf of [the college] in relation to the [consulting firm's] review of human resources at the college.

[2] In response, the college issued a decision letter to the appellant stating that any potentially responsive records are excluded from the scope of the *Act* under section 65(6) (labour relations and employment records). Section 65(6) is an exclusionary provision that sets out types of records to which the *Act* simply does not apply. If a record is covered by section 65(6) and none of the exceptions in section 65(7) apply, then the record is excluded from the scope of the *Act* and does not fall under the jurisdiction of the Information and Privacy Commissioner of Ontario (IPC).

[3] The college's decision letter further stated that even if the section 65(6) exclusion did not apply, such records would be exempt from disclosure under sections 13(1) (advice and recommendations), 17(1) (third party information), 18(1) (economic and other interests) and 21(1) (personal privacy) of the *Act*.

[4] The appellant appealed the college's decision to the IPC. During the mediation stage of the appeal process, the college:

- conducted a search for records and located eight records that are responsive to the appellant's request;

- issued a supplementary decision letter to the appellant that provided him with access to two records, subject to minor severances;[1]

- denied access to the other six records under the section 65(6) exclusion and the same exemptions claimed in its original decision letter; and

- provided the appellant with an index of records.

[5] The appellant advised the mediator that he was seeking access to the six records withheld by the college. In addition, he claimed that the college had not conducted a reasonable search for responsive records.

[6] This appeal was not resolved during mediation and was moved to adjudication for an inquiry. At the outset of the inquiry, the college located 10 additional responsive records. It provided both the IPC and the appellant with an updated index of records which indicates that it is denying access to these records under the section 65(6) exclusion and the same exemptions claimed in its previous two decision letters.

[7] The adjudicator previously assigned to this appeal agreed to a request from the college that she first address whether the section 65(6) exclusion applies to the records at issue before asking the parties to submit representations on the exemptions claimed by the college. In addition, she advised the consulting firm that it was not required to submit representations until she had resolved whether the records at issue are excluded from the scope of the *Act* under section 65(6).

[8] The adjudicator sought and received representations from both the college and the appellant on whether the records are excluded under section 65(6) and whether the college conducted a reasonable search for responsive records. This appeal was then transferred to me for a decision.

## RECORDS:

[9] The 16 records at issue in this appeal are set out in the following chart, which is based on the indexes of records that the college provided to the IPC and the appellant:

| Record number | Description of record | Number of pages | Exclusion/exemptions claimed |
|---|---|---|---|
| 1 | Confidential update for PEC on Review of HR Management Functions, dated April 2008 | 9 | ss. 65(6), 13(1), 17(1), 18(1), 21(1) |

[1] Records 6 and 7.

| | | | |
|---|---|---|---|
| 2 | Operational Plan for HR Services, Executive Preview, dated May 2008 | 23 | ss. 65(6), 13(1), 17(1), 18(1), 21(1) |
| 3 | Operational Plan for HR Services, Strictly Confidential to VPHR and President, dated June 2008, with appendices | 73 | ss. 65(6), 13(1), 17(1), 18(1), 21(1) |
| 4 | Report, Analysis of HRIS at Algonquin May 2008 | 16 | ss. 65(6), 13(1), 17(1), 21(1) |
| 5 | Minutes of President's Executive Committee dated April 9, 2008 and April 16, 2008 | 5 | ss. 65(6), 13(1) |
| 8 | Notes – Update on HR Committee – Mtg with [named individual] – January 15, 2008 | 1 | ss. 65(6), 17(1) |
| 9 | Review of HR Services – Status Report for the Vice President | 3 | s. 65(6) |
| 10 | Email March 13/09 from [named individual] to [another named individual] Subject Wording on HRIS Technology | 1 | ss. 65(6), 13(1) |
| 11 | Human Resources Transformation Plan 2009 – 2013 (Power Point handout) | 8 | ss. 65(6), 13(1) |
| 12 | Confidential Draft – Human Resources Transformation Plan (Working Document – April 2009) | 34 | ss. 65(6), 13(1), 17(1), 18(1) |
| 13 | Draft interview document | 4 | ss. 65(6), 18(1) |
| 14 | Draft interview and brainstorming session | 3 | s. 65(6) |

| | | | |
|---|---|---|---|
| 15 | Memorandum – Sept. 23/08 from [named individual] to [three named individuals] | 1 | s. 65(6) |
| 16 | [Named consulting firm] – Consulting Proposal: Developing an Operation Plan for HR Services – Oct. 31, 2007 | 40 | ss. 65(6), 17(1) |
| 17 | A [named consulting firm] Presentation on an Operational Plan for HR Services at Algonquin College – Dec. 2007 | 23 | ss. 65(6), 17(1) |
| 18 | Draft – HRS Operational Plan – Discussion points with [named consulting firm] (Jan. 18/08) | 1 | ss. 65(6), 17(1), 18(1) |

## ISSUES:

A. Does section 65(6) exclude the records from the scope of the *Act*?

B. Did the college conduct a reasonable search for records?

## DISCUSSION:

### A. Does section 65(6) exclude the records from the scope of the *Act*?

[10] Section 65(6) states:

> Subject to subsection (7), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:
>
> 1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.

> 2. Negotiations or anticipated negotiations relating to labour relations or to the employment of a person by the institution between the institution and a person, bargaining agent or party to a proceeding or an anticipated proceeding.
>
> 3. Meetings, consultations, discussions or communications about labour relations or employment related matters in which the institution has an interest.

[11] If section 65(6) applies to the records, and none of the exceptions found in section 65(7)[2] applies, the records are excluded from the scope of the *Act*.

[12] The type of records excluded from the *Act* by section 65(6) are documents related to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue.[3]

[13] IPC orders had previously found that the term "in relation to" in section 65(6) means "for the purpose of, as a result of, or substantially connected to."[4] However, in the 2010 decision, *Ontario (Attorney General) v. Toronto Star*,[5] the Divisional Court addressed the meaning of the term "relating to" in section 65(5.2) of the *Act* and found that it requires "some connection" between the records and the subject matter of that section. It rejected the imputation of a "substantial connection" requirement into the meaning of "relating to."

[14] The IPC has concluded that the Divisional Court's findings in *Toronto Star* also apply to the words, "in relation to" in section 65(6).[6] Consequently, for section 65(6) to

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[2] Section 65(7) states:

> This Act applies to the following records:
>
> 1. An agreement between an institution and a trade union.
> 2. An agreement between an institution and one or more employees which ends a proceeding before a court, tribunal or other entity relating to labour relations or to employment-related matters.
> 3. An agreement between an institution and one or more employees resulting from negotiations about employment-related matters between the institution and the employee or employees.
> 4. An expense account submitted by an employee of an institution to that institution for the purpose of seeking reimbursement for expenses incurred by the employee in his or her employment.

[3] *Ontario (Ministry of Correctional Services) v. Goodis* (2008), 89 O.R. (3d) 457, [2008] O.J. No. 289 (Div. Ct.).

[4] E.g., see Order P-1223.

[5] 2010 ONSC 991 (Div. Ct.).

[6] Order MO-2589.

apply, an institution must show that there is "some connection" (not a "substantial connection") between the records and the subjects mentioned in paragraph 1, 2 or 3 of this section.

[15] In its representations, the college specifies that all of the records at issue are excluded from the scope of the *Act* under 65(6)3.

[16] For section 65(6)3 to apply, the college must establish that:

1. the records were collected, prepared, maintained or used by the college or on its behalf;

2. this collection, preparation, maintenance or usage was in relation to meetings, consultations, discussions or communications; and

3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the college has an interest.

### *Part 1: collected, prepared, maintained or used*

[17] The college submits that all of the records were collected, prepared, maintained or used by or on its behalf. The appellant's representations focus, for the most part, on part 3 of the section 65(6)3 test, not parts 1 and 2.

[18] I have reviewed the records at issue, which all relate to the consulting firm's operational review of the college's human resources department, its human resources processes and its labour relations climate. I am satisfied that these records were all collected, prepared, maintained or used by the college. I find, therefore, that the college has met part 1 of the section 65(6)3 test.

### *Part 2: meetings, consultations, discussions or communications*

[19] To satisfy part 2 of the section 65(6)3 test, the college must establish that its collection, preparation, maintenance or use of the records was in relation to meetings, consultations, discussions or communications.

[20] The college submits that the consulting firm's work can be viewed as one large consultation about the college's human resources or multiple smaller meetings, consultations, discussions or communications.

[21] I agree with the college and find that its collection, preparation, maintenance or use of the records was in relation to meetings, consultations, discussions or

communications about the consulting firm's review of its human resources department, its human resources processes and its labour relations climate. I find, therefore, that the college has met part 2 of the section 65(6) test.

### ***Part 3: labour relations or employment-related matters in which the college has an interest***

[22] To satisfy part 3 of the section 65(6)3 test, the college must establish that the meetings, consultations, discussions or communications that took place were about labour relations or employment-related matters in which the college has an interest. In my view, this is the key part of the section 65(6)3 test with respect to the specific records at issue in this appeal, and both the college and the appellant have focused their representations on this part of the test.

*Labour relations or employment-related matters*

[23] I will first assess whether the records have some connection to meetings, consultations, discussions or communications about "labour relations or employment-related matters."

[24] The term "labour relations" refers to the collective bargaining relationship between an institution and its employees, as governed by collective bargaining legislation, or to analogous relationships. The meaning of "labour relations" is not restricted to employer-employee relationships.[7]

[25] The term "employment-related matters" refers to human resources or staff relations issues arising from the relationship between an employer and employees that do not arise out of a collective bargaining relationship.[8]

[26] The phrase "labour relations or employment-related matters" in section 65(6)3 has been found to apply in the context of:

- a job competition;[9]
- an employee's dismissal;[10]
- a grievance under a collective agreement;[11]

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[7] *Ontario (Minister of Health and Long-Term Care) v. Ontario (Assistant Information and Privacy Commissioner)*, [2003] O.J. No. 4123 (C.A.). See also Order PO-2157.
[8] Order PO-2157.
[9] Orders M-830 and PO-2123.
[10] Order MO-1654-I.
[11] Orders M-832 and PO-1769.

- disciplinary proceedings under the *Police Services Act;*[12]
- a "voluntary exit program";[13]
- a review of "workload and working relationships";[14] and
- the work of an advisory committee regarding the relationship between the government and physicians represented under the *Health Care Accessibility Act*.[15]

[27] The phrase "labour relations or employment-related matters" has been found *not* to apply in the context of:

- an organizational or operational review;[16] and
- litigation in which the institution may be found vicariously liable for the actions of its employee.[17]

[28] The college submits that the meetings, consultations, discussions and communications that took place were clearly about labour relations or employment-related matters. It states that the consulting firm was retained to examine the working environment and structure of the college's human resources department, its human resources processes and its labour relations climate. It then cites the consulting firm's mandate, as described by the firm itself, in one of the records:

> Our mandate called for us to produce an Operation Plan for Human Resources Services (HRS) by the end of June 2008. Our review of HR at [the college] covered the following functions:
>
> - Academic and non-academic employment relations,
> - Collective bargaining and collective agreement administration,
> - Compensation and benefit programs and services,
> - Employee recruitment, hiring, development, training and support,
> - Human rights, equity and dispute resolution,

[12] Order MO-1433-F.
[13] Order M-1074.
[14] Order PO-2057.
[15] *Ontario (Minister of Health and Long-Term Care) v. Ontario (Assistant Information and Privacy Commissioner)*, *supra* note 7.
[16] Orders M-941 and P-1369.
[17] Orders PO-1722, PO-1905 and *Ontario (Ministry of Correctional Services) v. Goodis*, *supra* note 3.

- Information systems and records management as it pertains to HR, and
- Related programs and services.

[29] The college submits that these functions "go to the heart" of the college's role as an employer and its relationship with its employees or their bargaining agents. It asserts that each of these functions is about labour relations or employment-related matters in which the college has an interest, as stipulated in section 65(6)3.

[30] It further submits that it would be "absurd" and "contrary to the plain language of section 65(6)3" to find that a consultation about human resources processes at the college is not about labour relations and employment-related matters in which the college has an interest. It states:

> . . . There was clearly some connection between the consultation and labour relations or employment – indeed, a direct and substantial connection. The fact that the consultation also examined the working environment in the human resources department, and examined the college's relationship with the union more broadly is merely additional evidence of the essential labour relations and employment-related nature of the consultation.

[31] The appellant acknowledges that some records relating to the consulting firm's work may be subject to exclusion under section 65(6)3 of the *Act* but submits that it is "highly unlikely" that all records that are responsive to his request would fall within the exclusion. He states:

> . . . [T]he established criteria under section 65(6)3 of "some connection" with labour relations and employment does not give rise to a presumptive and comprehensive exclusion for any and all records relating to the structure, organization, or operation of an institution's human resources department. At the very least, the [consulting firm's] review, analysis, and discussion of organizational and procedural matters cannot presumptively be deemed to fall within the scope of section 65(6)3 simply because they involved the human resources department. For example, information systems and records management protocols used by the human resources department do not come within section 65(6)3 simply because these systems may be used in respect of labour relations matters, any more than the department's contracts for office furniture or stationary might come within section 65(6)3 on the basis that such physical supplies are routinely used in the discharge of the department's labour relations or employment responsibilities. . . .

[32] I have thoroughly reviewed the records at issue. The consulting firm was retained to examine the working environment and structure of the college's human resources department, its human resources processes and its labour relations climate. Its mandate included reviewing human resources functions such as collective bargaining, the provision of compensation and benefits for employees and the recruitment and hiring of employees. In addition, the firm examined the working environment in the human resources department itself. I find that the records at issue, which all relate to the consulting firm's mandate, have some connection to meetings, consultations, discussions or communications about "labour relations and employment-related matters."

[33] I agree with the appellant that the requirement that there be "some connection" between the records and "labour relations and employment-related matters" does not necessarily give rise to a presumptive exclusion under section 65(6)3 for all records that relate in some way to the work done by the consulting firm. In fact, the college appears to recognize this principle, because it disclosed two records to the appellant that document payments that it made to the consulting firm.[18] In my view, however, the 16 records at issue in this appeal all meet the requirement of having "some connection" to meetings, consultations, discussions or communications about "labour relations and employment-related matters."

[34] The appellant points out that the consulting firm conducted an "operational review" of the college's human resources department, and he submits that previous IPC orders have found that such records are not excluded from the *Act* under section 65(6)3.[19] He states:

> . . . [W]hile the phrase "labour relations or employment-related matters" in section 65(6)3 has been found to apply in the context of job competitions, dismissals, grievances, disciplinary proceedings, and other circumstances, it has been found <u>not</u> to apply in the context of circumstances including an organizational or operational review. In the present case, the [consulting firm's] report is characterized by the college in its representations and in invoices already disclosed pursuant to this request as an "Operational Plan for HR Services."

[35] The appellant also cites Interim Order PO-3029-I, in which Adjudicator Diane Smith found that records relating to a general operational review of the Alcohol and Gaming Commission of Ontario (AGCO) did not fall within the section 65(6) exclusion, in part because these records did not contain matters that are integral to the employment relationship between the AGCO and its own workforce. He submits that the records in the present appeal "warrant similar consideration" and states:

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[18] *Supra* note 1.
[19] *Supra* note 16.

> . . . [N]either the report itself nor the other records identified by the college are integral to the employment relationship between the college and its employees, even though they may deal specifically with the organization, efficiency, and effectiveness of the college's human resources department.

[36] I am not persuaded by appellant's submission for two reasons. First, the section 65(6)3 exclusion does not require that the college show that the records are "integral to the employment relationship between the college and its employees." In accordance with the Divisional Court's decision in *Toronto Star*, it must only show that there is "some connection" between the records and the subject matter of the exclusion. In my view, the 16 records at issue all meet the requirement of having "some connection" to meetings, consultations, discussions or communications about "labour relations and employment-related matters" at the college.

[37] Second, the consulting firm's operational review is distinguishable from the ones considered in previous IPC decisions, such as Orders M-941, P-1369 and PO-3029-I. The college retained the firm to examine the working environment and structure of its human resources department, its human resources processes and its labour relations climate. None of the operational reviews considered in the previous orders cited above touched on labour relations and employment-related matters in the same direct manner as in this appeal.

*In which the institution has an interest*

[38] The college has established that the 16 records at issue have some connection to meetings, consultations, discussions or communications about "labour relations or employment-related matters." However, to satisfy part 3 of the test, it must also establish that it has "an interest" in these labour relations and employment-related matters.

[39] The phrase "in which the institution has an interest" in section 65(6)3 means more than a "mere curiosity or concern," and refers to matters involving the institution's own workforce.[20]

[40] In my view, the college has "an interest" in the labour relations and employment-related matters flowing from the consulting firm's work that extends beyond a "mere curiosity or concern." As the employer of various staff, whether under a collective agreement or through other means, the college clearly has an interest in the working environment and structure of its own human resources department, its human resources processes and its labour relations climate.

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[20] *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (2001), 55 O.R. (3d) 355 (C.A.), leave to appeal refused [2001] S.C.C.A. No. 507.

***Conclusion***

[41] I find that the college has established that it collected, prepared, maintained or used the 16 records at issue in relation to meetings, consultations, discussions or communications about labour relations or employment-related matters in which it has an interest, as stipulated in section 65(6)3. In my view, none of the exceptions in section 65(7) apply to the records.

[42] Given that the college has met the requirements of section 65(6)3 and none of the exceptions in section 65(7) apply, I find that the records are excluded from the scope of the *Act*.

## B. Did the college conduct a reasonable search for records?

[43] The appellant submits that the college did not conduct a reasonable search for records that are responsive to his request. He asks that the college be required to conduct a further search for responsive records, particularly for its contract with the consulting firm. He states:

> . . . The records released by the college to date document invoices and payments to the [consulting firm] during the relevant period totaling $99,750, and these documents identify the Director of Human Resources as the "contract representative." In such circumstances, the appellant maintains the college must have some records documenting the terms and conditions by which it retained the [consulting firm] to develop an operational plan for HR services, and that any such documents would clearly come within the scope of part (a) of the present request. Moreover, the appellant maintains that such documents would not come within the scope of subsection 65(6)3, as they relate to a contractual arrangement between the college and a third party, and are not meetings, consultations, discussions, or communications about labour relations or employment-related matters. . . .

[44] 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 24.[21] 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.

[45] 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

[21] Orders P-85, P-221 and PO-1954-I.

to show that it has made a reasonable effort to identify and locate responsive records.[22] To be responsive, a record must be "reasonably related" to the request.[23]

[46] 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.[24]

[47] The college states that because all potentially responsive records are excluded from the scope of the *Act* under section 65(6)3, whether the college conducted a reasonable search for such records, including the contract between itself and the consulting firm, is "moot." However, it submits that notwithstanding the application of section 65(6)3, it conducted a reasonable search for responsive records.

[48] Along with its reply representations, the college submitted a detailed, 26-paragraph sworn affidavit from the executive assistant to the vice-president, administration for the college (the affiant). The affiant states that she has "primary responsibility" for coordinating and directing searches for records that may be in the college's custody or control under the *Act*. She adds that searches were conducted for records responsive to the appellant's request in the following locations:

- the office of the vice-president, administration;
- the human resources department, particularly the office of the vice-president;
- the purchasing office;
- the president's executive committee (collections of meeting minutes);
- the office of the vice-president, business development;
- the office of the vice-president, academic; and
- the emails of a number of individuals.

[49] With respect to the contract between the college and the consulting firm, the affiant states that the director of human resources, who would have signed this contract, is no longer with the college, and that any records which were retained at the time of his departure would now be in the possession of the vice-president of human resources. She further states that both the vice-president of human resources and his executive assistant conducted searches for the contract and could not find it in their

[22] Orders P-624 and PO-2559.
[23] Order PO-2554.
[24] Orders M-909, PO-2469 and PO-2592.

current record holdings. As a result, she believes that this record has been lost or destroyed.

[50] Previous IPC orders have examined whether an institution should be ordered to conduct further searches for responsive records in cases where the section 65(6) exclusion has been found to apply to those records which have been already located. In Order MO-1412, former Senior Adjudicator David Goodis faced a similar situation involving section 52(3) of the *Municipal Freedom of Information and Protection of Privacy Act* [the equivalent in to section 65(6)]. He stated:

> . . . [T]he appellant submits that Hydro did not conduct a reasonable search for responsive records. In his representations, the appellant provides detailed descriptions of the records or types of records which he believes Hydro should have identified as responsive to his request. In my view, these records, whether or not they exist or should have been identified by Hydro, would fall within the scope of section 52(3)3, for the reasons outlined above. Accordingly, no useful purpose would be served by making a determination on this issue and, therefore, I will not do so.

[51] In Order PO-2105-F, former Assistant Commissioner Tom Mitchinson cited Order MO-1412 and applied the same approach. He stated:

> It is clear from this quotation from Order MO-1412 that a decision to absolve an institution of its responsibilities to conduct searches for all responsive records is dependent on the specific fact situation presented in a particular appeal. In Order MO-1412, Senior Adjudicator Goodis was satisfied, based on his treatment of records that had been identified as responsive, that any other records that might exist would, by definition, be treated in the same manner. In my view, I am faced with a similar situation in this appeal.
>
> As a result of its extensive search efforts, the Ministry identified one record . . . that was created by one of the individuals in attendance at the [identified meeting]. For reasons outlined in this order, I determined that this record falls within the scope of section 65(6)1 and is excluded from the *Act*. In my view, any records created by other individuals in attendance at [the same meeting] would, by definition, also be excluded, for the same reasons. Accordingly, no useful purpose would be served by determining whether the Ministry's searches for other records created at [the meeting] were reasonable, and I will not consider the search issue further in this appeal.[25]

[25] This approach has been followed in other IPC decisions, such as Order PO-3004.

[52] This approach has some applicability in the circumstances of this appeal. I have found that the 16 records at issue are excluded from the scope of the *Act* under section 65(6)3. However, the appellant submits that the college should be required to conduct a further search for the contract between itself and the consulting firm because this record would not fall within the section 65(6)3 exclusion. I disagree. The consulting firm was retained to examine the working environment and structure of the college's human resources department, its human resources processes and its labour relations climate. In my view, this contract clearly has "some connection" to meetings, consultations, discussions or communications about labour relations or employment-related matters in which the college has an interest, and it would therefore be excluded from the *Act* under section 65(6)3. Consequently, I find that no useful purpose would be served in ordering the college to conduct further searches for this contract.

[53] Moreover, the evidence submitted by the college amply demonstrates that experienced employees, knowledgeable in the subject matter of the appellant's request, made extensive efforts to locate responsive records. I find, therefore, that the college conducted a reasonable search for such records.

## ORDER:

I uphold the college's decision that the records at issue are excluded from the scope of the *Act* under section 65(6)3 and find that the college conducted a reasonable search for responsive records.

Original signed by: April 29, 2013
Colin Bhattacharjee
Adjudicator