



**Information and Privacy
Commissioner/Ontario**

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

ORDER 129

Appeal 890047

Sheridan College of Applied Arts and Technology



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

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

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

December 5, 1989

VIA PRIORITY POST

Appellant

Dear Appellant:

Re: Order 129
Appeal Number 890047
Sheridan College of Applied Arts and Technology

This letter constitutes my Order in your appeal from the decision of Sheridan College of Applied Arts and Technology (the "institution") regarding your request for information under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act").

The appeal file indicates that on January 24, 1989, you wrote to the institution asking for access to the following records:

a package of six or eight notes, memoranda, etc., some handwritten, collected at the SOFA Coordinators meeting in September 1984, held by Dean [named individual], and displayed at Arbitration hearing [name of Appellant] vs. Sheridan College June 23, 1988. This package was said to contain complaints about [name of Appellant].

Upon receipt of your request the institution's Freedom of Information and Privacy Co-ordinator (the "Co-ordinator") asked the following people to search for the relevant records:

1. Director of Human Resources
2. The then Dean of Fashion
3. Counsel for the College

On February 17, 1989, the Co-ordinator wrote to you advising that "[S]ince these records do not exist, access cannot be provided".

On February 19, 1989, you sent me a letter appealing the institution's decision, and I gave notice of the appeal to the institution on March 8, 1989.

As you are aware, as soon as your appeal was received by my office, a Compliance Auditor from my staff was assigned to meet with you to discuss the possible places to search for the requested records.

On July 12, 1989, and again on August 24, 1989, the Compliance Auditor conducted an investigation at the institution regarding the matters raised in your letter of appeal. The objectives of her investigation were to determine whether or not the institution had adequately met the requirements of the Act in attempting to locate the above records and informing you of the results.

Each person who attended the September 1984 SOFA Coordinators meeting was asked to review his or her files and see if any notes pertaining to this meeting could be located.

Most responded by indicating that they did not recall taking notes, and all attendees stated that they had no notes in their possession which pertained to this meeting. A few attendees could not remember either the specifics of the meeting or the meeting itself.

The Compliance Auditor also reviewed three files held by the institution under your name, but was unable to locate the requested records.

On August 24, 1989, the Compliance Auditor met with the former Dean of Fashion (currently the Director of Student Services). The former Dean was asked where she looked for the requested

records, and responded by stating that she had attended several Coordinators meetings and had occasionally kept handwritten notes. However, any such notes related solely to things she wanted to remind herself to do, and were subsequently discarded.

By letter dated October 16, 1989, the Compliance Auditor wrote to you reporting on the steps she had followed in searching for the records. She advised you that if you were satisfied with her report, no further action would be taken by our office and we would proceed to close the appeal file. If, however, you wished to make any comments or suggestions before a final disposition of the issues were made by me, the Compliance Auditor asked you to forward your representations to this office by November 6, 1989. Your representations were received on October 30, 1989, and I have taken them into account in reaching my decision in this appeal.

In your October 31, 1989 letter, you state:

You suggested that the record may not even have existed. I reiterate... the documents were held up in front of witnesses on 1988-06-23. [Named individual], [named individual] and lawyer [named individual] were some of these witnesses. My own lawyer, [named individual], was another. I think you need to talk to somebody who does not have a vested interest in denying the truth.

Following up on your suggestion, the Compliance Auditor contacted each of the individuals named in your letter. They all remembered being at the arbitration hearing, but no one recalled any of the requested records being held up in front of them during the hearing.

In your representations you offered no suggestions regarding additional areas to search for the requested records. However, you state that:

If the college still has these notes, I believe that I have a right to see them. If the college really does not have these notes (i.e. they have been destroyed), they ought to say so in writing so that the matter may be concluded. I am not satisfied if they have only been temporarily "lost".

The Co-ordinator in her February 17, 1989, letter to you stated that "[s]ince the record does not exist, access cannot be

provided". At no time during the course of this appeal was there ever a suggestion that the records were temporarily "lost".

Having carefully reviewed the scope of the investigation performed by the compliance branch and all representations submitted during the course of this appeal, I am satisfied that the institution has discharged all responsibilities imposed by the Act in searching for the records to respond to your access request. Therefore, my Order is to uphold the decision of the head in this matter.

Yours truly,

Sidney B. Linden
Commissioner

cc: Ms H.D. Sutter
Chairperson of the Board of Governors
Sheridan College of Applied Arts and Technology

Ms Jeanne Fryer, FOI Co-ordinator