

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4032

Appeal MA16-473

Conseil scolaire catholique Providence

March 25, 2021

Summary: The appellant submitted an access request under the *Municipal Freedom of Information and Protection of Privacy Act* to the Conseil scolaire catholique Providence (the board) for various records, including purchase requisitions and purchase orders for equipment delivered to a specific high school since January 1, 2013. The board provided him with purchase orders but not purchase requisitions. The appellant appealed the board's decision to this office. In this order, the adjudicator finds that the board conducted a reasonable search for "purchase requisitions" and provided sufficient evidence to establish that such records do not exist in its record holdings. He upholds the board's search for records and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

OVERVIEW:

[1] The sole issue to be resolved in this appeal is whether the Conseil scolaire catholique Providence (the board) conducted a reasonable search for "purchase requisitions" relating to equipment delivered to a specific high school since a certain date.

[2] By way of background, the appellant is a former high school teacher who alleges that he was suspended and then fired from his position after he attempted to raise concerns about the use of unsafe equipment in the school's industrial shop class. He submitted a three-part access request under *Municipal Freedom of Information and*

Protection of Privacy Act (the *Act*) to the board for three types of records. The only part of his request that remains at issue in this appeal is for the following records:

Purchase Requisitions and Purchase Orders for equipment delivered to [name of high school] that exceeds \$5,000 since January 1, 2013.

[3] The board sent a decision letter to the appellant which stated that it was granting him access to some of the records responsive to this part of his access request. In particular, it provided him with copies of all "purchase orders" for equipment delivered to the high school since January 1, 2013.

[4] The appellant appealed the board's access decision to this office, which assigned a mediator to assist the parties in resolving the issues in dispute. The appellant advised the mediator that he believed that additional responsive records should exist that are responsive to his access request, specifically "purchase requisitions." The board then sent a letter to the appellant in which it explained that "purchase requisitions" do not exist, and it disclosed some additional records to him that relate to the procurement of equipment at the high school named in his access request.

[5] This appeal was not resolved during mediation and was moved to adjudication, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and sought and received representations from the parties on the issue of whether the board conducted a reasonable search for the "purchase requisitions" sought by the appellant.

[6] In this order, I find that the board conducted a reasonable search for "purchase requisitions" and provided sufficient evidence to establish that such records do not exist in its records holdings. I uphold the board's search for records and dismiss the appeal.

DISCUSSION:

Did the board conduct a reasonable search for records?

[7] 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 of the *Act*.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.

[8] 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

¹ Orders P-85, P-221 and PO-1954-I.

² Orders P-624 and PO-2559.

be responsive, a record must be "reasonably related" to the request.³

[9] 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

[10] 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

[11] 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

Summary of parties' representations

[12] As noted above, the appellant is a former teacher at the high school named his access request and alleges that he was suspended and then fired from his position after he attempted to raise concerns about the use of unsafe equipment in the school's industrial shop class. In particular, he alleges that someone at the school initiated the purchase of equipment without safety guards and claims that the board has refused to disclose the purchase requisitions for this unsafe equipment.

[13] The appellant submits that he has a reasonable basis for believing that the board should have purchase requisitions in its record holdings for the equipment ordered by the school since January 1, 2013. He states:

1. Every Purchase Order has to be initiated by a person (who must select the equipment and must take responsibility -- important information if a serious accident occurs when the Ontario Curriculum does not require this equipment) and,
2. Every Purchase Order system has a database (and a database viewer screen) that contains the information requested in the FOI Request.

[14] The board's evidence on whether it conducted a reasonable search for the purchase requisitions sought by the appellant was provided by its Superintendent of Business/Treasurer (the Superintendent). At the outset, the Superintendent submits that she constitutes an experienced employee knowledgeable in the subject matter of the appellant's access request who expended a reasonable effort to locate records which are reasonably related to that request. She states :

³ Order PO-2554.

⁴ Orders M-909, PO-2469 and PO-2592.

⁵ Order MO-2185.

⁶ Order MO-2246.

[TRANSLATION]

As the executive responsible for business, I have ultimate responsibility for the procurement process within the board. In addition, before taking up the position of Superintendent of Business, I worked in the position of Controller at the board from July 2000. It is relevant to mention here that when I was hired by the board in July 2000, the board had just completed its migration to the SAP computer system for the management of all financial matters, including procurement. I was responsible for the implementation of the new computer system and the training of all board employees on the system. I was also responsible for the testing process for any configuration changes to the SAP computer system. I have extensive knowledge of the procurement process, and the configuration of the SAP computer system.

[15] The Superintendent then provides the following description of its computer system for procuring goods and services:

[TRANSLATION]

. . . In our basic computer system configuration, a *"Purchase requisition"* translates to *"Demande d'achat"*, and a *"Purchase order"* translates to *"Commande d'achat"*. In our operation, the terms *"Commande d'achat"* and *"Bon de commande"* are used interchangeably. In the initial implementation of the SAP system, as well as in the 20 years that the board has been operating the SAP system, the *"Demandes d'achat"* feature was never configured and enabled for use. The management of the procurement process in the SAP computer system is limited to the *"Commande d'achat"* (bon de commande) function.

[16] The Superintendent further submits that "purchase requisitions" do not exist and have never existed within the school board. She states:

[TRANSLATION]

. . . [T]he board does not use *"Purchase requisition"*, or *"Demande d'achat"* in its procurement process. The budget manager is responsible for creating a *"Purchase order"* or *"Commande d'achat"* (bon de commande) in the SAP computer system. This constitutes the first entry in the computer system in connection with any procurement process. According to our procedures and internal controls, the *"Purchase order"*, either *"Commande d'achat"* or *"Bon de commande"*, is then subject to a series of releases or approval, depending on the value of the order, before it is sent electronically to the supplier in question. This series of releases is

how the board ensures the internal controls necessary in the exercise of its fiduciary obligations.

[17] The Superintendent further states that in addition to providing the appellant with the purchase orders for all equipment delivered to the high school since January 1, 2013, the board disclosed the following two records that reasonably relate to his access request:

[TRANSLATION]

- the needs form for secondary school programming for the year 2013-2014, used for budgetary purposes by the board and
- the documentation of quotes obtained and recorded by the school administration in connection with purchase orders 4500803651, 4500892838 and 4500800559.

[18] In his reply to the board's representations, the appellant states that even if the board does not use purchase requisitions to request equipment, it should use emails for that purpose. He submits that the information he is seeking (e.g., date of requisition, items and name of person initiating the purchase) should be found in its email system. He submits that any relevant emails that initiate the purchase of equipment are, in effect, the "purchase requisitions" that he is seeking in his access request.

[19] In response, the Superintendent denies that the board uses emails to initiate the purchase of equipment. She states:

[TRANSLATION]

The procurement process does not rely on the exchange of emails. The appellant's comment (... the information e.g., date of requisition, items and name of person initiating the purchase in the e-mail system) is false.

The procurement process is managed through the SAP system. The budget manager is responsible for creating a "*Purchase order*" or "*Commande d'achat*" in the SAP computer system. This is the first entry not only in the computer system, but in any Board system, including email, in connection with any procurement process.

Analysis and findings

[20] I have considered the evidence submitted by the parties and for the following reasons, find that the board conducted a reasonable search for "purchase requisitions" and has provided sufficient evidence to establish that such records do not exist in its record holdings.

[21] The board's evidence was provided by its Superintendent of Business/Treasurer, who oversees and is accountable for its procurement processes and is knowledgeable about the SAP system used to procure goods and services, including equipment, for schools. I am satisfied that she constitutes an experienced employee who is knowledgeable about the subject matter of the appellant's access request.

[22] The Superintendent has provided ample and credible evidence to establish that the "purchase requisitions" sought by the appellant simply do not exist in its record holdings. Although SAP system used by the board contain a "purchase requisitions" feature, the Superintendent asserts that this feature has never been configured and enabled for use. Instead, the board uses the "purchase order" feature to procure goods and services, including equipment for schools.

[23] The appellant acknowledges that formal "purchase requisitions" may not exist that are responsive to his access request but asserts that there should be emails that perform the same purpose and would set out information such as the date of requisition, the items requested and the name of person initiating the purchase. However, the Superintendent denies that emails are used to initiate the procurement process and has provided evidence to show that the requisitioning and ordering of goods and services is initiated and implemented through the "purchase order" feature of the SAP system.

[24] It is not my role to determine whether the board's procurement process has sufficient lines of documented accountability. My role is to determine whether the board conducted a reasonable search for the "purchase requisitions" (or analogous records) sought by the appellant and whether it has provided a credible basis for claiming that such records do not exist.

[25] Based on the evidence before me, I am satisfied that an experienced board employee (the Superintendent) knowledgeable in the subject matter of the appellant's access request conducted a reasonable search for "purchase requisitions" and provided sufficient evidence to establish that such records do not exist in its record holdings.

[26] Although the appellant has provided some strong accountability arguments about the importance of ensuring that the initiation of the procurement process for industrial shop class equipment for schools is properly documented, I find that he has not provided me with a reasonable basis for concluding that the specific "purchase requisitions" (or analogous records) that he seeks actually exist in the board's record holdings.

[27] In these circumstances, I conclude that the board conducted a reasonable search for the "purchase requisitions" sought by the appellant, as required by section 17 of the *Act*.

ORDER:

I uphold the board's search for records and dismiss the appeal.

Original Signed by: _____
Colin Bhattacharjee
Adjudicator

_____ March 25, 2021