

Information and Privacy Commissioner,
Ontario, Canada



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

CYFSA Decision 38

Complaint FA23-00003

January 30, 2026

Summary: An individual filed a complaint regarding a decision from the Children's Aid Society of Toronto (CAST) denying access to records containing the individual's personal information. CAST refused the individual's access request on the basis that it did not provide a "service" to her within the meaning of section 312(1) of the *Child, Youth and Family Services Act*.

The adjudicator upholds CAST's decision that the individual has no right of access to the records under section 312(1) because the records do not relate to the provision of a service to her and dismisses the complaint. However, the adjudicator orders CAST to conduct a further search for records.

Statutes Considered: *Child, Youth and Family Services Act, 2017*, sections 1(1), 2(1) (definitions of "service" and "service provider"), 281, 312(1), 313 and 314.

Decisions Considered: CYFSA Decision 1, 3, 5, 15 and 265.

BACKGROUND:

[1] This decision addresses whether an individual has a right of access under Part X of the *Child, Youth and Family Services Act* (the *CYFSA* or *Act*) for records the Children's Aid Society of Toronto (CAST or CAS Toronto) says it prepared for the courts in 1963.

[2] The complainant submitted an access request under the *Act* to CAST for "all information in the possession of the Children's Aid Society of Toronto that pertains to me with respect to physical and mental abuse I encountered as a child." In response, CAST issued a decision to the complainant indicating that it had conducted a search for

responsive records but did not locate any records in which its says the complainant was a "recipient of service."

[3] The complainant filed a complaint to the Information and Privacy Commission of Ontario (the IPC) and a mediator was assigned to the file to explore settlement with the parties.

[4] During mediation, CAST confirmed that its search located records in which the complainant is identified. However, CAST takes the position that these records do not relate to a provision of service to the complainant or her family. Further, CAST's position is that these records were created by a caseworker who attended the complainant's household when she was a young child for the purposes of completing a report for the courts relating to her parent's divorce.

[5] The complainant's position is that when she made her request, she expected to obtain copies of records related to an incident that she says occurred when she was a teenager. She says that the school she was attending contacted CAST after finding evidence of abuse. CAST told the mediator that it was possible that the school had contacted another children's aid society regarding this incident. The complainant subsequently submitted an access request under the *Act* to another children's aid society. However, the complainant told the mediator that the other children's aid society did not locate any records pertaining to herself.

[6] At the end of mediation, the complainant confirmed that she continues to pursue access to the records CAST located but withheld on the basis that they do not relate to a provision of service to her. The complainant also takes the position that CAST's search was not reasonable and that records regarding the incident when she was a teenager should exist.

[7] As CAST maintained its position, mediation did not resolve the complaint and the complaint was transferred to the adjudication stage of the complaint process in which an adjudicator may commence a review. I commenced my review by inviting the parties' written representations.¹ In her representations, the complainant says that at the time the caseworker attended her household, she was a young child who was in desperate need of protection which the caseworker failed to notice. The complainant says that the caseworker's failure to make inquiries about her well-being resulted in her being left in the household.² The complainant also says that individuals, such as herself, should have

¹ CAST's written representations were shared in their entirety with the complainant in accordance with the IPC's confidentiality criteria. I also considered the complainant's October 6, 2023 email she sent to the mediator as part of her representations.

² The complainant's representations also referenced questions about what the court did with the information in the report, including how this information was presented to the court. The complainant also poses general questions about child protection protocols, caseworker's duties, and investigation practices at the time the records were created. The complainant's questions are outside the scope of this complaint and will not be addressed in this decision.

access to records or documents that may inform them about their lives and circumstances when they were children.

[8] The complainant's submissions about the events in her childhood are compelling but not relevant to my determination of whether she is entitled access to the records under section 312(1).

[9] I uphold CAST's decision to deny the complainant access to the records because her right of access to records under section 312(1) of the *Act* is restricted to records that relate to a "provision of a service" to her.³ However, CAST is ordered to conduct a further search for records which would respond to the complainant's request.

RECORDS:

[10] The records⁴ at issue total 23 pages and consist of:

- Index card and record of child's family, dated June 7, 1963 (pages 1 and 2),
- Caseworker's notes regarding the Official Guardian (now the Office of the Children's Lawyer) request for a report and closing notes (page 3),⁵
- Letters the caseworker sent to the parents (pages 4-5, 7 and 9-10),
- Letter the Official Guardian sent to the mother's representative (pages 6 and 8),
- Letter and memo from the Official Guardian to the service provider requesting a form 4 report, dated June 6, 1963 (pages 11-13),
- Cover letter from a caseworker to the Official Guardian (pages 14-15), and
- Affidavit and form 4 completed by a caseworker and submitted to the court (pages 16-23).

³ Section 286(b) contemplates disclosure without consent where other sections of the *Act* permit or require a service provider to disclose personal information relating to the *provision of a service* to an individual. There is no need to consider whether CAST considered the disclosure provisions found at sections 292 to 294 of the *Act* as I found that the records located do not relate to a provision of service to the complainant or her family.

⁴ The page numbers do not correspond with the date the records were created.

⁵ The case worker's opening entry is dated June 7, 1963 and the last entry is August 30, 1963.

DISCUSSION:

Issue A: Does the complainant have a right to request access to the records under section 312(1)?

[11] Section 312(1) of the *Act*⁶ sets out three requirements for an individual to have a right of access to a record under Part X:

1. the record must be a record of personal information about the individual,
2. the record must be in the service provider's custody or control, and
3. the record must relate to the provision of a service to that individual.

[12] All three of the requirements above must be satisfied for the complainant to have a right of access to the records under section 312(1).

[13] The parties agree that the first requirement has been met.⁷ However, CAST takes the position that the complainant's request fails under the third requirement of the test as its creation of the records does not amount to a "provision of service" to the complainant or her family members within the meaning of the *Act*.⁸

[14] For the reasons that follow, I agree with CAST's position on the third requirement and find that the personal information in the records does not relate to the provision of a service to the complainant or her family. As all three requirements must be met for the complainant to have a right of access to the records, it is not necessary for me to make a determination as to whether the second requirement has been met.

Provision of service

[15] The term "service" is defined in Part X of the *Act* at section 281 to mean "a service or program that is provided or funded under this Act or provided under the authority of a licence." Section 2(1) of the *Act* sets out examples of such services. The relevant part

⁶ Section 312(1) of the *Act* states:

An individual has a right of access to a record of personal information about the individual that is in a service provider's custody or control and that relates to the provision of a service to the individual unless...[.]

⁷ In its representations, CAST says that the complainant's personal information along with her mother's, father's, siblings' and maternal grandparents' information appear in the records. I am satisfied that the records contain the personal information of the complainant and other individuals as defined in section 2(1) of the *Act* with reference to paragraphs (a), (d), (g) and (h) of the definition of the term "personal information" in section 2(1) of the *Freedom of Information and Protection of Privacy Act*.

⁸ CAST also made the argument that it was not acting as a "service provider" when its caseworker created the records (second requirement). In addition, CAST argues that the records are not dedicated primarily to the complainant's personal information within the meaning of section 312(3) of the *Act*, if I find that the complainant has a right of access under section 312(1).

of section 2(1) states:

“service” includes,

- (a) a service for a child with a developmental or physical disability or the child’s family,
- (b) a mental health service for a child or the child’s family,
- (c) a service related to residential care for a child,
- (d) a service for a child who is or may be in need of protection or child’s family,
- (e) a service related to adoption for a child, the child’s family or others,
- (f) counselling for a child or the child’s family,
- (g) a service for a child or the child’s family that is in the nature of support or prevention and that is provided in the community,
- (h) a service or program for or on behalf of a young person for the purposes of the Youth Criminal Justice Act (Canada) or the Provincial Offences Act, or
- (i) a prescribed service[.]

Submissions of the parties

[16] CAST asserts that the complainant has no right of access to the records under section 312 because there was no provision of service to her or her family. In its representations, CAST says, “[c]hild protection services are wide-ranging in nature and include investigating allegations of abuse and neglect at both the intake and family service level, providing counselling and other supportive services to prevent children coming into care and arranging adoptions.”

[17] CAST also asserts that “the duties being carried out by the [caseworker] did not relate to the protection of children being served by [it] or their families but relate solely to assisting the Official Guardian.” CAST says that the records were created by a senior caseworker in 1963 in response to a written request by the Official Guardian for the completion of a report on custody related issues. CAST says that at the time the records were created, the courts had the authority to require the Official Guardian to investigate and prepare a report on matters relating to the custody, maintenance and education of any child of marriage under 16 years old in response to a statement of claim for the

dissolution of marriage.⁹

[18] CAST says that in this case, the Official Guardian provided CAST with a copy of the mother's Statement of Claim regarding her request to dissolve the marriage and requested assistance to complete the report on the custody, maintenance and education of the children of marriage.

[19] I confirm that the records authored by CAST were created after its receipt of the Official Guardian's letter and memo requesting the completion of a "form 4 report."¹⁰

[20] In its representations, CAST states:

... that in preparing the required report, its author, the caseworker, was acting as agent for the Official Guardian's office pursuant to the authority granted to them under the *Infant's Act* and the *Matrimonial Causes Acts* rather than providing child protection services in accordance with the *Child Welfare Act*. Evidence of this includes the following:

1. But for the court order, the records would not have been created i.e. this was not a family that had come to the attention of a children's aid society for a child protection purpose requiring it to utilize its powers under the statute as mandated for the protection of children.

2. But for the request of the Official Guardian, these records would not be in existence.

3. Immediately upon the completion of the records, the file was closed by the worker, "As the reports have been sent, this case may be closed".¹¹ This makes it clear that the sole purpose of the record being created was to complete the report.

4. In her affidavit, the worker clearly refers to the fact that she is preparing the report in her capacity as agent, "That I am an investigator in the employ of the Children's Aid Society for the County of York, Agent of the official Guardian,... and "... under instructions I have made an investigation personally on behalf of the Official Guardian into matters relating to the custody, maintenance and education of the child or children named in the Statement of Claim filed... "¹²

⁹ CAST cites section 1(6) of the *Infants Act*, SO 1966, c.87 and subsections 6(2) through (5) of the *Matrimonial Causes Act*, SO 1966, c. 232.

¹⁰ The term "form 4 report" is used throughout the records to refer to the caseworker's affidavit in which recommendations regarding the custody, maintenance and education of the children are made.

¹¹ Footnote 5 in CAST's representations states "CAST records at page 3, last sentence."

¹² Footnote 6 in CAST's representations states "CAST records at page 21, paragraphs 1 and 2"

5. The Official Guardian is not required to utilize the services of a child protection worker to complete the report.

[21] As noted above, the complainant's submissions focus on her allegations that CAST failed to provide services to her as a child in need. She made the following arguments in her representations:

- the caseworker who attended her household should have interacted with herself and the other children present to "investigate" and "unveil" the abuse she says was occurring,
- her family "should have come to the attention of the children's aid society for a child protection purpose." Instead, it appears to the complainant that "the sole purpose of the record being created was to complete the report" and that no investigation into her well-being took place, and
- "the primary mandate of CAST to ensure the well-being of a child was not met and therefore this translates to a FAIL on the part of CAST for not investigating more thoroughly to uncover the obvious abuse that was going on in the household and primarily towards me."

[22] CAST says that if it provided services to the complainant or her family that those records would be located and maintained in the Child Protection Investigation Network (CPIN) database.¹³

[23] CAST also says that the IPC's interpretation of "provision of service" in CYFSA Decision 1 supports its position.¹⁴ In CYFSA Decision 1, which was followed in CYFSA Decisions 3 and 5, the IPC held that a precondition for an individual to have a right of access under section 312(1) to a record under Part X is that the record must relate to the provision of a service to the individual or their family requesting access.

[24] CAST says that in the circumstances of this complaint, "the duties being carried out by the [case worker] did not relate to the protection of children... or their families but relate solely to assisting the Official Guardian in the carrying out of the statutorily defined duty of providing a "...report to the court upon matters relating to the custody, maintenance and education of the child...."¹⁵

[25] The complainant maintains that CAST failed to provide child protection services to her but says that "enough service" was provided to her family unit to bring the records within the scope of her right of access. In the alternative, the complainant says the

¹³ CAST's website states that:

CPIN is a provincial information management system that allows our Agency and other children's aid societies to securely store personal information and manage case files in one database.

¹⁴ CAST cited paragraphs 29 to 34 of CYFSA Decision 1 in its representations.

¹⁵ Footnote 8 in CAST's representations states: "*Infants Act*, SO1966, c 187 ss.1(6)."

records relate to services provided to her or her family indirectly through the Official Guardian.

Decision and analysis

[26] Based on the representations of the parties and my review of the records, I agree with CAST's assertion that the caseworker's visit and preparation of the report was not related to a provision of "service" to the complainant or her family.

[27] The complainant's submissions do not challenge CAST's assertion that the caseworker's visit to her household was not for a child protection purpose. The complainant also appears to accept that the records before me relate solely to the case worker's home visit and preparation of a report for the Official Guardian.

[28] I accept CAST's evidence that the caseworker attended the complaint's household for the sole purpose of preparing a report on custody issues related to the breakdown of the complainant's parents' marriage. I also note that the records created by CAST post-date the Official Guardian's request for a form 4 and that once the form 4 was submitted, CAST closed its file.

[29] Furthermore, in my view a finding that the complainant does not have a right of access under section 312(1) of the *Act* to the records before me is consistent with previous IPC decisions considering a requester's access rights under the *Personal Health Information Protection Act (PHIPA)* for a similar-type document.¹⁶

[30] For example, in PHIPA Decision 265, I considered whether a father had a right to request access to a social worker's notes relating to the preparation of a custody and access assessment report (custody and access report). A custody and access report, also known as a section 30 assessment, is a report prepared by mental health professionals to assess the needs of a child and the ability of parents or guardian to meet those needs.¹⁷ The custody and access report is either arranged by the parents privately or ordered by a family court judge. In that complaint, the parents retained the services of a social worker to prepare a custody and access report to assist the decision-making process in determining custody and access for their children. After receiving a copy of the custody and access report through his lawyer, the father submitted a request under *PHIPA* to the social worker for a copy of his notes.

[31] The determining issue in PHIPA Decision 265 was whether the social worker, in preparing the custody and access report, provided "health care." In that decision, I

¹⁶ See PHIPA Decisions 15 and 265.

¹⁷ Section 30(1) of the *Children's Law Reform Act* is titled "Assessment of needs of child" and states:
The court before which an application is brought for a parenting order or contact order with respect to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

determined that the work undertaken to complete the custody and access report did not amount to a provision of “health care” or health-related services. In other words, I found that the social worker’s use of his skills to observe the children and assess what might be in their best interests concerning a custodial and parenting plan did not amount to providing “health-care.”¹⁸ As a result, I found that the father did not have a right of access to the notes.¹⁹

[32] I find that the circumstances of this complaint are analogous to those in PHIPA Decision 265. CAST provided sufficient evidence to demonstrate that the records before me were created for the sole purpose to assist the decision-making process in assessing child custody issues. I am satisfied that the work undertaken by the caseworker in this matter was for the narrow purpose of preparing a report that addressed custody and access issues similar to the type of issues addressed in the custody and access reports at issue in PHIPA Decisions 15 and 265.

[33] Accordingly, I find that in the circumstances of this complaint, the complainant does not have a right of access under section 312(1) of the *Act* to request the records before me as the third requirement has not been met.

Issue B: Did CAST conduct a reasonable search for responsive records?

[34] When a requester claims that additional records exist beyond those identified by a service provider, the issue to be decided is whether the service provider has conducted a reasonable search for responsive records as required by sections 313 and 314 of the *Act*. These sections address the written request that an individual may make to a service provider to exercise a right of access to records, and the obligations on the service provider in responding to the access request.²⁰

[35] Previous IPC decisions²¹ have considered sections 313 and 314 and have noted that the IPC has extensively canvassed sections of *FIPPA*, the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, and the *Personal Health Information Protection Act, 2004 (PHIPA)* that set out the obligations of institutions (under *FIPPA* and *MFIPPA*) and health information custodians (under *PHIPA*) to conduct a reasonable search

¹⁸ The term “health care” is defined at section 2 of *PHIPA*, in part, as follows:

“health care” means any observation, examination, assessment, care, service or procedure that is done for a health-related purpose and that,

(a) is carried out or provided to diagnose, treat or maintain an individual’s physical or mental condition,

(b) is carried out or provided to prevent disease or injury or to promote health, or

(c) is carried out or provided as part of palliative care, and includes,

¹⁹ I also concluded in PHIPA Decision 265 that the social worker was not a “health information custodian.” In this complaint, I did not make any finding as to whether CAST was a “service provider” for the purposes of preparing the records before me given my determination that the third requirement in section 312(1) had not been met.

²⁰ CYFSA Decision 35, para 46.

²¹ See for example CYFSA Decisions 4, 18, and 28.

for records in response to access requests made under those statutes. The relevant provisions of those statutes and the *Act* are broadly analogous, and the principles outlined in IPC orders and decisions on searches issued under those statutes are relevant in making determinations on the issues of reasonable search and custody or control in the context of requests under the *Act*.²² I agree with and adopt the IPC's approach to reasonable search taken under those statutes for the purposes of this matter.

[36] Where the issue is whether a service provider has conducted a reasonable search for records, in accordance with its statutory obligations, the service provider need not prove with absolute certainty that additional records do not exist. However, the service provider must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.²³ To be responsive, a record must be "reasonably related" to the request.²⁴ 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.²⁵

[37] Although a requester will rarely be able to indicate precisely which records the service provider has not identified, the requester still must provide a reasonable basis for concluding that such records exist.²⁶ If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold CAST's decision. If I am not satisfied, I may order further searches.

Submissions of the parties

[38] The complainant's request sought access to "all information in the possession of the Children's Aid Society of Toronto that pertains to me with respect to physical and mental abuse I encountered as a child." The complainant takes the position that CAST's search for responsive records should have located records relating to the incident she says occurred when she was a teenager.

[39] In her representations, the complainant explains that when she was a teenager, the school she attended contacted a child protection agency to report concerns that she was being abused at home. She says that a male individual subsequently attended her school and took her to an agency she believes is CAST. The complainant says that in response to CAST's assertion that it did not locate responsive records she made attempts to obtain information from the school directly. She says that "someone has or ought to have the name of the [child protection agency] that was called to the school."

[40] The complainant also questioned whether her correct surname was used in CAST's searches. The complainant points out that in the portion of CAST's representations

²² CYFSA Decision 35, para 47.

²³ Orders P-624 and PO-2559; PHIPA Decisions 17 and 18.

²⁴ Order PO-2554; PHIPA Decisions 17 and 18.

²⁵ Orders M-909, PO-2469 and PO-2592; PHIPA Decisions 17 and 18.

²⁶ Order MO-2246; PHIPA Decisions 17 and 18.

discussing whose personal information is in the records, CAST identifies her with a different surname. The complainant says that this surname is incorrect and raises questions about whether CAST's search for records used her proper surname.

[41] The complainant also says that she filed a subsequent request to CAST under the *Act* for information about the school she attended when she was a teenager. The complainant provided a copy of CAST's access decision regarding this subsequent request with her representations. The complainant says that she requested and was provided with the names of certain individuals employed at the school from 1968 to 1970. She asks that I order CAST to conduct a further search for records containing her personal information in its record holdings including the names of these individuals. She also asks that CAST's further search ensures that her correct surname is used.

[42] CAST takes the position that its searches for records which would respond to the complainant's request were reasonable. CAST submitted an affidavit prepared by a Supervisor in its Information Management and Disclosure Services department (supervisor) in support of its position.

[43] In the affidavit, the supervisor says that the complainant's request was initially forwarded to the Information Management/Records Department (records department) and "a search of the historical and current recording system was completed using the complainant's name and birth date and her mother's name and birth date." The supervisor says that the only records located were the same records it provided the IPC. The supervisor also says that during the mediation of this complaint, she directed the records department to conduct a second search for records associated with the complainant and her family members. The supervisor says that the records department was also directed to search for any records associated with the school the complainant says she attended in the 1960's.

[44] The supervisor says that the records department's further search did not locate any additional records. She says that the records department reported that it had completed a search for records associated with the school but that during the time period the records, if the existed, would have been created they would have been filed under the "teacher/adult involved" as opposed to the name of the school or community organization.

[45] The supervisor says that the results of the second search was shared with the complainant during mediation along with her assessment that records may exist with another child protection agency. The supervisor says that the complainant agreed to file a request under the *Act* with this agency. The supervisor concludes her affidavit by stating that she believes that:

...there are no further records responsive to the request. I also verily believe that it is not possible that CAS Toronto previously had such records or that

they have been destroyed as CAS Toronto does not expunge or destroy its records.

Decision and analysis

[46] In my view, the questions the complainant raised about whether her correct surname was used in the searches conducted by CAST establishes a reasonable basis to conclude that additional records may exist in the circumstances of this complaint. In arriving at this decision, I considered CAST's evidence and note that the specific search terms it used in its searches was not identified in its representations.²⁷ As a result, there is insufficient evidence before me to reach a conclusion that the surname in question was simply a typographical error.

[47] Though I am satisfied that CAST's searches were coordinated by an experienced employee knowledgeable in the subject matter of the request, I have decided to order CAST to conduct a further search to remedy any confusion surrounding the inclusion of a different surname for the complainant in CAST's representations.

[48] I also order CAST to include in its further search the names of the individuals employed at the complainant's former school it identified in its July 22, 2024 access decision to the complainant. It would appear that the complainant made her subsequent request in response to CAST's explanation given to her during the mediation of this complaint that during the relevant time period investigation records may have been filed under the name of the teacher or adult reporting the incident. In my view, it is appropriate in the circumstances to direct CAST to include the names of these individuals in its further search in an effort to identify additional records that may respond to the complainant's request for her personal information.

ORDER:

For the foregoing reasons, pursuant to section 321(1) of the *Act*:

1. I dismiss the portion of the complaint relating to the complainant's request for a copy of the form 4 and related documents (the records identified on page 3 of this decision) given my finding that the complainant does not have a right of access under section 312(1).
2. I order CAST to conduct an additional search for records responsive to the complainant's access request for records in its record holdings containing her personal information using the name of the complainant along with the names of

²⁷ The *Act* does not require service providers to identify the search terms it used in its search to demonstrate that it conducted a reasonable search as contemplated under sections 313 and 314. However, in some circumstances the identification of search terms could demonstrate that a reasonable effort to locate records which are reasonably related to the request.

her parents, grand-parents and siblings (when they were children) along with the names of the individuals identified in CAST's decision letter, dated July 22, 2024.

3. I order CAST to issue an access decision to the complainant regarding any new records located as a result of the search order in provision 2, in accordance with the *Act* treating the date of this decision as the date of the request.
4. I order CAST to provide me with an affidavit sworn by the individual(s) who coordinates the search by **March 3, 2026** describing the search efforts. At a minimum, the affidavit(s) should include the following information:
 - The names of department(s) conducting the search,
 - Information about the types of files searched, the nature and location of the search, and the steps taken in conducting the search,
 - Confirmation of the names of individuals used in the search,
 - The results of the search, and
 - Details of whether responsive records could have been destroyed, including information about record maintenance policies and practices and retention schedules.
5. CAST's affidavit(s) and any accompanying representations may be shared with the complainant, unless there is an overriding confidentiality concern. CAST should indicate whether it consents to the sharing of their representations and affidavit(s) with the complainant.
6. I remain seized of the complaint to deal with any outstanding issues arising from order provision 2.
7. I reserve the right to require CAST to provide me with a copy of the access decision referred to in order provision 4.

Original Signed by: _____
Jennifer James
Adjudicator

January 30, 2026