



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-601

Appeal P-9300209

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/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

BACKGROUND:

Sheridan College of Applied Arts and Technology (the College) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to information relating to timetable changes for a program which it offered in January 1993 entitled "Discovering the Trades". In response to the request, the College advised the requester that the only timetable change occurred at the beginning of the program, during the week of January 4, 1993. The College also indicated that this adjustment resulted in a shift in classes from two hours on Thursday to one hour on Tuesday and one hour on Wednesday. The College further advised the appellant that this change had been approved by both Employment and Immigration Canada and the College.

The requester took the position that responsive records which document the timetable changes should exist, and based on this belief, appealed the decision of the College.

During the mediation of this appeal, the College forwarded to the appellant a copy of the timetable which it submits had been in effect since the first week of classes in January 1993, following the adjustment described above.

Further mediation was not successful and notice that an inquiry was being conducted to review the College's decision was sent to the College and the appellant. Representations were received from both parties.

The sole issue in this appeal is whether the College's search for records responsive to the request was reasonable in the circumstances of this case.

In the Notice of Inquiry, the College was asked to provide details of the searches undertaken including the identity of the person who conducted the searches, the locations which were searched, the names and positions of any other individuals who were contacted in the course of the search, the types of files which were searched and the results of the searches.

In his representations, the appellant encloses photocopies of five different timetables which the College provided to him and asserts that written records of each change should exist somewhere. Additionally, the appellant notes that the class hours were not merely changed from Thursday to Tuesday and Wednesday, but that they were decreased from 25 to 22 hours.

In an affidavit which accompanied the College's representations, the Associate Director of Human Resources of the College lists the individuals who were contacted when the response to the request was being prepared. According to the affidavit, the Freedom of Information and Protection of Privacy Co-ordinator contacted the Chair of the Faculty of Skills Development and Apprenticeship who, in turn, contacted the part-time instructor who was teaching the course and requested that he provide her with any information that existed with respect to timetable changes.

The Associate Director further states in her affidavit that the Chair of the Faculty of Skills Development and Apprenticeship had approved the timetable changes and that the College does not require written documentation in order to effect such changes.

In Exhibits "B", "E" and "F" to her affidavit, the Associate Director then makes reference to certain files which are maintained by the College. The affidavit does not, however, clearly state that these, or any other, files were searched for records responsive to the appellant's request. Further, Exhibit "G" to the affidavit of the Associate Director is a document which, in my view, may be responsive to the appellant's request. A decision about access to this document has not yet been provided to the appellant.

Where a requester provides sufficient details about the records which he or she is seeking and a governmental institution indicates that additional records do not exist, it is my responsibility to ensure that the governmental agency has made a reasonable search to identify any records which are responsive to the request. While the Act does not require that a governmental institution prove to the degree of absolute certainty that such records do not exist, the search which an institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

Based on the information contained in the affidavit and the exhibits attached thereto, I am unable to ascertain precisely which files, if any, were searched in response to the appellant's request. I am, therefore, not satisfied that the physical search which the College undertook for responsive records was reasonable having regard to all of the circumstances of the case. On this basis, it will be necessary for the College to conduct an additional search for responsive records by searching all relevant files, particularly those referred to in Exhibits "B", "E" and "F" of the affidavit included with the College's representations.

ORDER:

1. I order the College to conduct a further search for responsive records and to notify the appellant in writing as to the results of that search, within 20 days of the date of this order.
2. If, as a result of the further search, the College identifies any additional records which are responsive to the request, I order the College to provide a decision letter to the appellant regarding access to these records in accordance with sections 26 and 29 of the Act, considering the date of this order as the date of the request and without recourse to a time extension.
3. I further order the College to provide a decision letter to the appellant regarding access to the document contained in Exhibit "G", in accordance with sections 26 and 29 of the Act, considering the date of this order as the date of the request and without recourse to a time extension.
4. In order to verify compliance with this order, I order the College to provide me with a copy of the letter referred to in Provision 1 of this order within 25 days of the date of this

order. This notice should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario M5S 2V1.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ December 15, 1993