



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

# **ORDER M-563**

**Appeal M-9500249**

**Carleton Roman Catholic School Board**



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## **NATURE OF THE APPEAL:**

The Carleton Roman Catholic School Board (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of records relating to the requester's daughter, particularly a file referred to as the "special services file". The requester's daughter consented to the disclosure of this information to her mother. The Board located records responsive to the request and provided a number of records to the requester. Following her review of the disclosed records, the requester appealed the Board's decision on the basis that additional records responsive to her request were not disclosed to her.

During the mediation of the appeal, the appellant provided the Commissioner's office with her reasons for claiming that additional records should exist. With her consent, this information was shared with the Board. The Board responded by clarifying that it maintained two sets of records concerning the appellant's daughter, a general student file and a confidential psychological file. The Board further indicated that the entire contents of the general student file were disclosed to the appellant as a result of this request and that the contents of the confidential psychological file were disclosed to the appellant in July 1993.

The appellant maintained that all responsive records had not been provided to her. A Notice of Inquiry was provided to the appellant and the Board. Representations were received from both parties. The sole issue for determination in this appeal was whether the Board's search for records responsive to the request was reasonable in the circumstances.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Board indicates that such a record does not exist, it is my responsibility to ensure that the Board has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Board to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge their obligations under the Act, the Board must provide me with sufficient evidence to show that they have made a **reasonable** effort to identify and locate records responsive to the request.

The Board's representations include an affidavit sworn by its Administrative Officer and Freedom of Information Co-ordinator in which he outlines the details of the two searches which he conducted of the records held by the Board's Central Student Services Department. The Co-ordinator indicates that all records relating to the appellant's daughter in the custody of the Board have been disclosed to the appellant either in July 1993 or as a result of this request.

The appellant maintains that psychological and educational assessments which were conducted by the Board and a psychological assessment performed by another school board in 1981 have been withheld from disclosure. In addition, the appellant submits that handwritten notes from a special services teacher and the notes taken by the Board's psychologist have not been disclosed, notwithstanding that she received

some of them in 1993.

It appears that there exists some confusion about which records were provided to the appellant in July 1993. The appellant was not provided with an index of the records contained in the confidential psychological file maintained by the Board which was disclosed to her at that time. The appellant's present request was worded in a sufficiently broad manner as to include all records maintained by the Board relating to her daughter. In addition, despite having received access to records in July 1993, the appellant is not precluded from making a further request which may include those records.

In the interests of clarifying that all of the records held by the Board which contain information about the appellant's daughter have been disclosed, I find that it will be necessary for the Board to prepare and forward to the appellant a decision letter regarding access to the contents of the confidential psychological file relating to her daughter. In this way, both the Board and the appellant may be assured that all records maintained by the Board relating to the appellant's daughter were disclosed to her in July 1993.

I am satisfied that the search conducted by the Board in relation to the general student file was reasonable. Further action by the Board in relation to this file is not, accordingly, required.

### **ORDER:**

1. I order the Board to forward to the appellant within thirty (30) days of the date of this order, a decision letter on access to the contents of the confidential psychological file relating to the appellant's daughter.
2. I uphold the Board's decision with regard to the general student file relating to the appellant's daughter.
3. In order to verify compliance with this order, I reserve the right to require the Board to provide me with a copy of the decision letter sent to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Donald Hale

\_\_\_\_\_  
July 11, 1995

Inquiry Officer