



Information and Privacy  
Commissioner/Ontario

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

# **ORDER M-597**

Appeal M\_9500222

The Board of Education for the City of Hamilton



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## **NATURE OF THE APPEAL:**

The Board of Education for the City of Hamilton (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of the interviewer's notes at the requester's interview for a long-term occasional position with the Board. The Board located the interview notes which were responsive to the request and granted access to them in their entirety. The requester appealed this decision, arguing that a front cover sheet and back score sheet which should have been attached to the notes was not disclosed to her.

A Notice of Inquiry was provided to the appellant and the Board. Representations were received from both parties. The sole issue to be determined in this appeal is whether the Board's search for records responsive to the appellant's request was reasonable in the circumstances.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

The Board's representations include an affidavit sworn by its Freedom of Information Co-ordinator in which she describes in detail the efforts made to locate the front and back sheets which are the subject of this appeal. The Co-ordinator conducted a search of files relating to the appellant which are located at the offices of the Board's solicitors as well as in the files maintained by the Board. The Co-ordinator located the back page, which had not been completed by the interviewers, but was unable to locate a copy of the cover sheet. I find that the uncompleted back page is responsive to the appellant's request and order the Board to issue to the appellant a decision letter stating whether access will be granted to it.

The appellant submits that in response to other requests for interview notes, she has been provided with a cover sheet indicating the date, location and the names of staff who conducted the interview.

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 its obligations under the Act, the Board must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

I have reviewed the representations of the parties and I am satisfied that the Board has conducted a thorough search for the cover page which forms part of the appellant's request. Accordingly, I find that the Board's search for records responsive to this portion of the request was reasonable in the circumstances of this appeal.

## **ORDER:**

1. I order the Board to provide the appellant with a decision regarding access to the back page of the interview notes within fifteen (15) days of the date of this order.
2. I uphold the Board's decision with regard to the cover page portion of the appellant's request.
3. In order to verify compliance with Provision 1 of this order, I order the Board to provide me with a copy of the decision letter referred to in Provision 1 within twenty-one (21) days of the date of this order. This letter should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Toronto, Ontario M5S 2V1.

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

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September 22, 1995