



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

ORDER M-786

Appeal M_9600072

Lincoln County Board of Education



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NATURE OF THE APPEAL:

The Lincoln County Board of Education (the Board) received a three-part request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records pertaining to the development of certain aspects of school curriculum. The request was later clarified, and based on the requester's clarification, the Board disclosed a record identified as being responsive to the request.

The requester appealed the Board's decision, as she believes that additional responsive records exist and that it was inappropriate for the Board to have taken the clarification she provided as negating the other items in her request.

Following mediation of this appeal, the only remaining issue is whether the Board has conducted a reasonable search for records responsive to items 3(A), (B) and (C) of the appellant's original request, which read:

A complete resource list of contributors to the "Across the Spectrum" section of the Lincoln Learning Targets, to be given to the above individuals, and access provided to all materials.

More specifically:

- (A) names and capacity of Board contributors
- (B) names and addresses of all individuals and institutions acting as consultants, and their capacity
- (C) names and sources of all printed references (ie: books, periodicals, articles, reports, etc.).

The Board's response to this part of the appellant's request was that no responsive records exist.

A Notice of Inquiry was provided to the Board and the appellant. Representations were received from both parties.

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 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.

The appellant submits that "Across the Spectrum" is a 15-page section of the greater curriculum document, which outlines a certain philosophical mandate for curriculum development. The appellant indicates that parts of the document are drawn from the "Common Curriculum, 1993", but that the remaining parts were not drawn from this source, nor from the provincial standards in the areas covered. The appellant argues that since parts of this section are not taken from any Ministry of Education and Training document, they must have come from an outside source or were made up by someone within the Board. She submits that such a small and values-specific section of the document was certainly not a combined effort of all curriculum staff at the Board, and that it is unlikely that those items not footnoted were entirely the creation of the Board. Further, she indicates that these "unaccounted for" parts of the section strongly resemble other published works, which have not been listed as sources by the Board.

The Board submits that the "Lincoln Learning Targets" document was published in December 1993 but has since been superseded by the Ministry of Education and Training's release of the "Common Curriculum". In regard to the appellant's interest in the Board's use of outside consultants, the Board submits that it occasionally uses external personnel to offer professional development workshops for staff and that the appellant is aware of such a workshop which was offered on June 28, 1995. The Board notes that this workshop addressed instructional strategies for use in the primary classroom, specifically the role of music, and was not targeting the "Across the Spectrum" section of the "Lincoln Learning Targets".

The Board has also submitted the sworn affidavit of the Superintendent of Education - Curriculum, who personally conducted the search to locate records responsive to the "Across the Spectrum" portions of the appellant's request. The affidavit indicates that, in relation to item 3(A), the "Across the Spectrum" part of the document was a product of the entire Curriculum Services Department and members of the Special Services Department. A list of the employees in these departments at the relevant time was provided to the appellant. In relation to item 3(B), the Superintendent states that a list of consultants was not kept. In relation to item 3(C), the Superintendent indicates that there are no records which cite the names and sources of printed references. The Superintendent indicates that she reviewed all curriculum documents and met with two members of her staff, namely the Coordinator for Primary and the Coordinator for the Critical and Creative Thinking Project, as part of her search. The affidavit goes on to submit that no further responsive records exist.

I have considered the representations of the parties and I find that the Board's search for records responsive to the appellant's request was reasonable in the circumstances of this appeal. The Board, in my view, is not arguing that it did not use outside sources in developing the document, but that it did not keep a list of these sources. It has provided an affidavit in support of this point. While employees within the Curriculum Services Department may have knowledge of the sources they used, the Act does not impose a statutory obligation on the Board to create a list of these sources in response to the request. Nor, for that matter, does the Act require the Board to respond to the request in any way different from the way it did.

ORDER:

I find that the Board's search for responsive records was reasonable and I dismiss the appeal.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ June 12, 1996