



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

# **ORDER M-1056**

**Appeal M-9700249**

**Prince Edward County Board of Education**



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## **NATURE OF THE APPEAL:**

The Prince Edward County Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to eleven separate items relating to the Board's policies surrounding the collection of records, as well as specific records relating to one of the appellants' children, who had been enrolled as a special education student in a school operated by the Board. The Board responded to the request by advising that the policies sought by the appellants do not exist and that the records relating to their son had been forwarded to his new school, which is operated by a different board of education.

The appellants appealed the Board's decision. During the extensive mediation of the appeal, the appellants agreed that they were no longer seeking access to Board policies respecting the maintenance of records. In addition, following additional searches by Board staff, further records relating to the appellants' son were located and made available to them. The appellants continue to maintain that additional records should exist. Specifically, they seek access to:

1. A two-page hospital booklet with the initials of one of the appellants and the date May, 1995 inscribed therein;
2. A "Form 2" child medication log for the year 1996;
3. A special education file folder which identifies information logged in and out of that file;
4. A "third" medical report.

A Notice of Inquiry was provided to the appellants and the Board. Both parties submitted detailed representations in response.

The sole issue to be determined in this appeal is whether the Board's search for records responsive to these portions of the appellants' request was reasonable.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he is seeking, 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 records do not exist. However, 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 appellants' request.

The appellants have provided me with very specific reasons for their belief that the requested records should exist. In my view, the appellants have clearly established a reasonable basis for concluding that the additional records responsive to their request which are at issue in this appeal exist.

The Board has responded to each of the remaining four parts of the request in similar detail. The Board's Supervisor, Special Education Services Department, has submitted an affidavit in which she describes the efforts which she has made on the Board's behalf to locate records which are responsive to each of the remaining portions of the appellants' request. Specifically, the Supervisor deposes that:

1. A hospital booklet containing one of the appellants' initials and the date May 1995 could not be located in any of the searches which she undertook. A 1994 hospital booklet was located and provided to the appellants following a search at the child's former school.
2. The Supervisor was unable to locate a "Form 2 - Child Medication Log" for the year 1996 and adds that it was her recollection that the Board stopped administering medication to the appellants' child in early 1996.
3. The logging of information coming into and going out of the Special Education file on its folder does not occur. In addition, she states that the entire file, including its file folder, was forwarded to the child's new school.
4. The appellants have been sent copies of all of the "medical reports" contained in the Board's files. The appellants have referred to these documents as "three groupings" in earlier correspondence with the Board. In fact, these records contain only two actual medical reports. The Board takes the position that these are the documents which were referred to in its April 24, 1997 letter as three medical reports and that a third medical report does not exist.

Based on my review of the submissions of the Board and the appellants, I am satisfied that the efforts made by the Board to identify and locate records responsive to each part of the appellants' requests were reasonable in the circumstances of this appeal. While the Board's initial response to the requests was lacking in detail and failed to meet the standard required under the Act, I find that these deficiencies were remedied by the Board's efforts to respond fully to the concerns raised by the appellants during the mediation and inquiry stages of this appeal.

To summarize, I find that the Board has discharged its statutory responsibility to conduct a reasonable search for records responsive to the remaining portions of the appellants' request.

**ORDER:**

I dismiss the appeal.

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

\_\_\_\_\_ December 30, 1997