



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

# **ORDER PO-1642**

Appeal PA-980289-1

Ministry of Education and Training



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## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Ministry of Education and Training (the Ministry) for access to all records relating to a request by the Carleton Roman Catholic School Board through the School Capital Grant process for funds for a secondary school in Nepean, Ontario. The request includes access to correspondence, reports, submissions, calculations, ministerial correspondence, memos and briefing notes. The requester indicated the search for responsive records should include a search at the Ministry's regional office as well as the Ministry's Toronto offices. The request is dated August 28, 1998.

On October 8, 1998, the requester contacted the Ministry as he had not received an acknowledgment of his request. The Ministry indicated that the request was received on September 8, 1998 and stated that a decision would be forthcoming the following week.

The Ministry did not issue a decision letter to the requester as required by sections 26 and 29 of the Act within the 30 days prescribed by the Act, nor did the Ministry request a time extension to process the request under section 27(1) of the Act. Accordingly, the Ministry placed itself in a "deemed refusal" situation pursuant to section 29(4) of the Act.

The requester (now the appellant) appealed the Ministry's deemed refusal to provide access to the records. On November 5, 1998, the Ministry and the appellant were each sent a Notice of Inquiry. The Notice stated that the Ministry was in a "deemed refusal" situation because a decision letter had not been issued to the appellant within the time period set out in section 26 of the Act. The Notice also indicated that I would attempt to settle the appeal but if a settlement was not reached by November 19, 1998, I would be in the position to issue an order requiring the Ministry to issue a decision letter to the appellant.

Section 26 of the Act states that an institution shall issue a decision to a request within 30 days of receipt of the request. As the request was received by the Ministry on September 8, 1998, a decision should have been rendered by October 8, 1998. I contacted the Ministry on several occasions to ascertain if they would be issuing a decision letter to the appellant. On November 20, 1998 I was informed by the Acting Co-ordinator that she was in receipt of some of the records and was expecting to receive the remainder of the records from the program areas. I was advised that a decision should be issued the week of November 23, 1998. On November 30, 1998, the Acting Co-ordinator advised me that the file was being reviewed by the Deputy Minister but the Co-ordinator could not give me a firm date for the issuance of a decision to the appellant.

Given the above, I am ordering the Ministry to issue a decision letter to the appellant with respect to his request for records.

## **ORDER:**

1. I order the Ministry to provide the appellant with a decision on access to the records responsive to the request of August 28, 1998 by **December 11, 1998**, without recourse to a time extension.

2. In order to verify compliance with Provision 1, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **December 14, 1998**. This 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: \_\_\_\_\_  
Janice Nemeth  
Acting Adjudicator

\_\_\_\_\_ December 4, 1998