



**Information and Privacy
Commissioner/Ontario**

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

ORDER 112

Appeal 890048

Sheridan College of Applied Arts and Technology



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November 9, 1989

VIA PRIORITY POST

Appellant

Dear Appellant:

Re: Order 112
Appeal Number 890048 Sheridan College

This letter constitutes my Order in your appeal from the decision of Sheridan College of Applied Arts and Technology (the "institution") regarding your request for information under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act").

The appeal file indicates that on January 24, 1989 you wrote to the institution asking for access to the following records:

Hiring Committee Notes for School of Fashion Arts_Dean's position, June 1984, that pertains to [you]. Notes for other candidates are not required.

Upon receipt of your request the institution's Freedom of Information and Privacy Co_ordinator (the "Co_ordinator") asked the following people to search for the relevant records:

1. Chairman of the Selection Committee and former Vice_President, Academics

[IPC Order 112/November 9, 1989]

2. Counsel for the College
3. Director of Human Resources
4. Recruitment Co_ordinator

On February 17, 1989, the Co_ordinator wrote to you advising that "[s]ince the record does not exist, access cannot be provided".

On February 19, 1989, you sent me a letter appealing the institution's decision, and I gave notice of the appeal to the institution on March 8, 1989.

As you are aware, as soon as your appeal was received by my office, a Compliance Auditor from my staff was assigned to meet with you to discuss the possible places to search for the requested records.

On July 12, 1989, and again on August 24, 1989, the Compliance Auditor conducted an investigation at the institution regarding the matters raised in your appeal letter. The objectives of her investigation were to determine whether or not the institution had adequately met the requirements of the Act in attempting to locate the above records and informing you of the results.

Each member of the selection committee (or if any of them had since left the institution, the custodian of the relevant files) was asked to review his or her files and see if any hiring committee notes could be located.

All members of the selection committee responded that no hiring committee notes were in their possession. Most members stated that any materials relating to the hiring committee would have been collected by the chair of the committee at the conclusion of the interviews. One member reported that some type of evaluation form had definitely been used, while another recalls getting a binder with the resumes of the candidates. However, no members remembered taking any documents away with them following the interviews.

The Co_ordinator wrote to the then chair of the selection committee (who held the position of Vice_President of Academics before leaving the institution) asking if any notes were taken during the selection process; if so, whether they were collected; and if collected, by whom. The chair advised the Co_ordinator that if there were any notes, they would have been

given to the Recruitment Co_ordinator (an employee of the institution's Human Resources department).

The Co_ordinator also searched the two filing cabinets holding the records of the former Vice_President of Academics, but was not able to find any notes relating to the selection committee for the Dean, School of Fashion Arts. She also checked the other personnel files of all internal candidates interviewed for the position and found no notes.

The Compliance Auditor also reviewed three files held by the institution under your name but was unable to locate the requested hiring committee records.

On August 24, 1989, the Compliance Auditor met with the institution's Director of Human Resources to determine the procedures followed during recruitment. According to the Director, the Human Resources department normally provides a package of forms to the chair of a particular selection committee. The chair has the option of using one or all of the forms, and is responsible for returning all forms and accompanying notes to the Human Resources department. After they are returned, these records are filed by job number or posting number and disposed of after twelve months. The Recruitment Co_ordinator is responsible for ensuring that all notes and forms are properly shredded after the required retention period.

The Director of Human Resources also reported that access to these types of records is restricted to the Director and the chair of the particular selection committee. No one else is permitted access, nor could the Director recall any instances where other members of a selection committee had asked to see the notes.

By letter dated September 21, 1989, the Compliance Auditor wrote to you reporting on the steps she had followed in searching for the records. She advised you that if you were satisfied with her report, no further action would be taken by our office and we would proceed to close the appeal file. If, however, you wished to make any comments or suggestions before a final disposition of the issues were made by me, the Compliance Auditor asked you to forward your representations to this office by October 12, 1989. Your representations were received on October 12, 1989, and I have taken them into account in reaching my decision in this appeal.

In your representations you offered no suggestions regarding additional areas to search for the requested records. However, you state that:

...if candidates have the right to inspect such hiring committee notes, as I believe they do under the Freedom of Information and Protection of Privacy Act, then they ought to be granted every opportunity to apply for this information prior to its destruction. In other words, the policy should be official and published in the Policies and Procedures Manual.

It should be noted that the Freedom of Information and Protection of Privacy Act, 1987 did not apply to Community Colleges in Ontario until January 1, 1989. Section 40(1) of the Act requires that personal information be retained for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to personal information. Ontario Regulation #532/87 provides that:

Personal information that has been used by an institution shall be retained by the institution for at least one year after use unless the individual to whom the information relates consents to its earlier disposal.

However, because the requested records were destroyed prior to January 1, 1989 it is not possible for the regulation to apply to these records.

Having carefully reviewed the scope of the investigation performed by the compliance branch and all representations received during the course of this appeal, I am satisfied that the institution has discharged all responsibilities imposed by the Act and Ontario Regulation #532/87 in searching for records to respond to your access request. Therefore, my Order is to uphold the decision of the head in this matter.

Yours truly,

Sidney B. Linden
Commissioner

cc: Ms H.D. Sutter
Chairperson of the Board of Governors
Sheridan College of Applied Arts and Technology

Ms Jeanne Fryer, FOI Co_ordinator