Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4098

Appeal PA17-373

University of Ottawa

December 22, 2020

Summary: This order deals with an appeal of an access decision made by the University of Ottawa (the university) under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The access request was for all "internal conversion standards," conversion scales, tables or spreadsheets used to calculate or convert grades of applicants from other institutions/countries for admission purposes. In this order, the adjudicator finds that the scope of the appellant's request is limited to the record at issue, which is responsive to the access request. She also finds that the sole record at issue is not exempt from disclosure under either section 18(1)(a) or section 18(1)(c) of the *Act*. Lastly, she finds that the university's search for records was reasonable.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 18(1)(a), 18(1)(c) and 24.

Orders and Investigation Reports Considered: Orders PO-3233, PO-3294 and PO-3464-I.

OVERVIEW:

[1] This order disposes of the issues raised as a result of an appeal of an access decision made by the University of Ottawa (the university) under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The access request was for all "internal conversion standards," conversion scales, tables, or spreadsheets used to calculate or convert grades of applicants from any and all other institutions/countries (e.g., international universities) for the purposes of calculating grades/averages for admission to programs at the University of Ottawa.

[2] The university issued a decision, advising the requester that it had created a record responsive to the request, but it denied access to the record in full, claiming the application of the discretionary exemption in section 18 (economic and other interests) of the *Act*.

[3] The requester (now the appellant) appealed the university's decision to this office.

[4] During the mediation of the appeal, the university explained that the record is an 894- page Excel spreadsheet containing data extracted from its student system. The university also clarified that it was relying on paragraphs (a) and (c) of the exemption at section 18(1) to deny access to the record.

[5] The appellant confirmed his interest in pursuing access to the record. He also took the position that additional records ought to exist. As a result, reasonable search was added as an issue in this appeal.

[6] The appeal was then moved to the adjudication stage of the appeal process where an adjudicator may conduct an inquiry under the *Act*.

[7] The adjudicator assigned to the file commenced the inquiry by seeking the representations of the university. The university provided representations, which were shared with the appellant. Based on her review of the file, the adjudicator was of the view that the appellant was concerned about the responsiveness of the record and, consequently, added as an issue the responsiveness of the record. The adjudicator then sought, and received, representations from the appellant, which were shared with the university. Further representations were sought, and received from both parties.

[8] The file was then transferred to me to continue the inquiry. For the reasons that follow, I find that the scope of the appellant's request is limited to the record at issue, which is responsive to the access request. I find that the record is not exempt from disclosure under either section 18(1)(a) or 18(1)(c). Lastly, I find that the university's search for records was reasonable.

RECORD:

[9] The record at issue is an 894-page Excel spreadsheet of approximately 14,866 line items, which were extracted from the "Average Calculator." The record contains the following column headings (which appear in the record in French):

- University/Source (source institution);
- Faculty;
- Grading basis numeric identifier;

- Start Year/Month;
- End Year/Month;
- Comment (University/Source) (comments regarding the source institution grading basis);
- Grade
- Note/Additional information (notes about the grades);
- Number of sessions used;
- Active grading basis; and
- Grade point equivalence.

ISSUES:

A. What is the scope of the request? What information is responsive to the request?

B. Do the discretionary exemptions in sections 18(1)(a) and/or 18(1)(c) apply to the record?

C. Did the university conduct a reasonable search for records?

DISCUSSION:

Issue A: What is the scope of the request? What information is responsive to the request?

[10] Based on the previous adjudicator's review of the file, it appeared that the appellant's concern may relate not only to the university's search, but also to the responsiveness of the record it created. As a result, the adjudicator asked the university to provide representations on the record's responsiveness to the appellant's access request.

[11] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

> (1) A person seeking access to a record shall,
>
> > (a) make a request in writing to the institution that the person believes has custody or control of the record;

> (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

. . .

> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[12] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour.[1]

[13] To be considered responsive to the request, records must "reasonably relate" to the request.[2]

Representations

[14] The university submits that the appellant's access request was for:

> All "internal conversion standards," conversion scales, tables, or spreadsheets used to calculate or convert grades of applicants from any and all other institutions/countries (e.g., international universities) for purposes of calculating grades/averages for admission to programs at the University of Ottawa.

[15] The university submits that the record at issue contains all of the information responsive to the appellant's request. The university further submits that it did not need to seek clarification from the appellant about the scope of the request because the request contained sufficient detail to enable an experienced university employee to conduct a search for responsive records. In particular, the wording of the request was clearly for "internal conversion standards," conversion scales, tables or spreadsheets. The university argues that the request did not extend to other records that may relate to admission to programs at the university.

[16] The university goes on to submit that there are no records within its custody or control that permit the calculation or conversion of the grades of applicants from unlisted institutions or countries. If the conversion scale does not exist in the Average Calculator, an experienced employee will conduct some research, and could add the grade scale to the Average Calculator.

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[1] Orders P-134 and P-880.
[2] Orders P-880 and PO-2661.

[17] The appellant submits that, as confirmed by the university's affidavit evidence, it took no steps to confirm or clarify the scope of the request, and adopted a narrow interpretation of the request, as evidenced by the single database query, as opposed to conducting a reasonable search of the resources its admissions staff use to process, analyse and update its grade scales and equivalencies.

[18] Further, the appellant argues that the university appears to have provided no response to any of the questions raised in the Notice of Inquiry as to the responsiveness of the record, including:

- whether or not the record would respond to the request for standards, scales, etc.; or
- whether the information in the record would permit calculation or conversion of grades from institutions not listed in the record for the purpose of determining admission; or
- whether there are any other records that would permit the calculation or conversion of grades from unlisted institutions or countries.

[19] Lastly, the appellant submits that the university's failure to explain these basic questions makes it impossible to conclude that the single record it generated is adequately responsive to the request. At the very least, the appellant argues, the significant efforts referred to by the university would suggest it is more than likely there are other records that would also be responsive to the request, but which were not identified as a result of the university's single, brief search.

[20] In reply, the university submits that after the mediation of this appeal, it received a second access request from the appellant for information similar in nature to the request that is the subject matter of this appeal. In response, the university states, it advised the appellant that there was only one record within its custody or control responsive to his request, namely the record at issue in this appeal. That access decision was not appealed. In addition, the university submits that its interpretation was that the appellant was seeking access to the internal conversion standards and scales used for the purposes of calculating the grades for admission, and not for algorithms, methods or formulas. The university further argues that the appellant is aware that it relies on external tools, guides and other information available on external sources outside of its custody and control when calculating and converting grades of applicants from other institutions and countries.

[21] Lastly, the university argues that it would like to clarify that experienced employees who conduct research for the purposes of adding or updating the grade scales to the Average Calculator do not generate any records outside of the information stored in the Average Calculator.

[22] In sur-reply, the appellant submits that the university did not contact him to

discuss or clarify the scope of his request, or to provide any assistance in reformulating the request. Instead, the appellant argues, it chose to adopt a narrow interpretation of the request. He further submits that the scope of the request was clear that it was for all tools used by the university to calculate or convert grades for the purposes of admission, including internal, as well as any other information that may apply, including external sources.

Analysis and findings

[23] I find, based on my review of the access request, the wording of the request was clearly for "internal conversion standards," conversion scales, tables or spreadsheets and that the request did not extend to other records that may relate to admission to programs at the university. Based on my review of the record itself, I find that it is directly responsive to the appellant's request for internal conversion standards, conversion scales, tables or spreadsheets. While the university did not contact the appellant for clarification of his request, I find that the request was clearly articulated by the appellant and sufficiently detailed to permit an experienced employee to identify the responsive record. I further find that the university did not adopt a narrow interpretation of the request and the responsive record it created contains exactly the information sought by the appellant.

[24] As a result, I find that the scope of the appellant's request was clearly set out and that the record at issue, in the custody and control of the university, is responsive to that request.

Issue B: Do the discretionary exemptions in sections 18(1)(a) or 18(1)(c) apply to the record?

[25] The university's position is that sections 18(1)(a) and 18(1)(c) of the *Act* apply to exempt the record from disclosure. These sections state:

> A head may refuse to disclose a record that contains,
>
> > (a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;
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> . . .
>
> > (c) information where the disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution[.]

[26] The purpose of section 18 is to protect certain economic interests of institutions. Generally, it is intended to exempt commercially valuable information of institutions to the same extent that similar information of non-governmental organizations is protected

under the *Act*.[3]

[27] The appellant's position is that the discretionary exemptions in sections 18(1)(a) and 18(1)(c) do not apply, and given the purpose of section 18(1), the record cannot be withheld simply because it is used by the university.

[28] The purpose of section 18(1)(c) is to protect the ability of institutions to earn money in the marketplace. This exemption recognizes that institutions sometimes have economic interests and compete for business with other public or private sector entities, and it provides discretion to refuse disclosure of information on the basis of a reasonable expectation of prejudice to these economic interests or competitive positions.[4]

[29] This exemption is arguably broader than, for example, section 18(1)(a) in that it does not require the institution to establish that the information in the record belongs to the institution, that it falls within any particular category or type of information, or that it has intrinsic monetary value. The exemption requires only that disclosure of the information could reasonably be expected to prejudice the institution's economic interests or competitive position.[5]

[30] For section 18(1)(c) to apply, the institution must provide sufficient evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative, although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.

[31] The failure to provide sufficient evidence will not necessarily defeat the institution's claim for exemption where harm can be inferred from the surrounding circumstances. However, parties should not assume that the harms under section 18 are self-evident or can be proven simply by repeating the description of harms in the *Act*.

[32] For section 18(1)(a) to apply, the institution must show that the information:

1. is a trade secret, or financial, commercial, scientific or technical information,
2. belongs to the Government of Ontario or an institution, and
3. has monetary value or potential monetary value.

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[3] Toronto: Queen's Printer, 1980.
[4] Orders P-1190 and MO-2233.
[5] Orders PO-2014-I, MO-2233, MO-2363, PO-2632 and PO-2758.

[33] The university's position is that the data that was extracted from its Average Calculator is a trade secret. The types of information listed in section 18(1)(a) have been discussed in prior orders:

> *Trade secret* means information including but not limited to a formula, pattern, compilation, programme, method, technique, or process or information contained or embodied in a product, device or mechanism which:
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> (i) is, or may be used in a trade or business;
>
> (ii) is not generally known in that trade or business;
>
> (iii) has economic value from not being generally known; and
>
> (iv) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.[6]

Representations

Section 18(1)(a)

[34] The university submits that the data that was extracted from its Average Calculator is a trade secret. Specifically, it consists of a compilation of information collected from various external sources, including information obtained in confidence, as well as publicly available information. The university submits that specialized employees engage in processing, analysing and routinely updating the information and the grade scales, and their equivalent of unlisted institutions or countries. They also revise existing scales that are no longer in use by the institutions that are listed. The university further submits that the information at issue is proprietary information that is used for admission purposes by it.

[35] The university also submits that it has spent a great deal of time, money, skill, effort and specialized knowledge in maintaining the information at issue. Access to the information, it argues, is restricted to employees whose duties are to assess suitability, eligibility or qualifications for admission to an academic program at the university.

[36] The university goes on to argue that the conversion scales in the Average Calculator have monetary value and it will be deprived of this value if the information is disclosed. It further argues that the information could be used by other higher educational institutions for the same purposes, and it would have significant value if the university were to sell it to other institutions from across the world, stating:

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[6] Order PO-2010.

> The information at issue is organized, reliable, collected from reputable national and international sources, it contains current grade and past grade scales that are still relevant in assessing the application for admission file. Accordingly, it would be fail to assume the higher educations institutions that have not developed such a comprehensive compilation of grade scales would be interested in acquiring such a comprehensive set of information. Further, the University would not provide such information to a third party without a monetary compensation.

[37] Lastly, the university submits that it is not aware of any other Canadian institutions that make similar grade conversion scales and equivalences publicly available.

[38] The appellant submits that there is no evidence that the information at issue has any inherent or intrinsic monetary value, beyond that it is a resource used by the university in the course of its operations. He goes on to argue that the mere fact that the university incurred a cost to create the record does not mean it has monetary value for the purposes of section 18(1)(a), including the fact that the information has been kept confidential.

[39] The appellant further submits that the access request is for the university's own internal conversion standards for converting grades of applicants from other institutions to its own grading system and standards. The appellant's position is that it is difficult to imagine how information regarding the conversion of grades to the university's own internal system and standards could have any monetary value to other institutions which would have their own unique standards, including the conversion of grades.

[40] Lastly, the appellant argues that it is pure speculation that the university might potentially be able to sell the institution specific information to any other institution.

Section 18(1)(c)

[41] The university submits that the conversion scales compiled in the Average Calculator system vary in complexity and require a great deal of time and resources to develop and maintain. The university further submits that access to the information at issue is restricted to employees whose duties are to assess suitability, eligibility or qualifications for admission to its academic programs. It goes on to argue that the admission process is core to the university's purpose, and the conversion scales are an integral part of this process. The university maintains and routinely updates the grade scales and equivalencies to increase efficiencies when calculating and analysing the averages of candidates from another institution or country that have applied to a program at the university.

[42] The information at issue, the university submits, is organized, reliable and collected from reputable national and international sources. The record contains current

grade and past grade scales that are still relevant in assessing the application for admission file. Accordingly, the university argues, it would be fair to assume the higher educational institutions that have not developed such a comprehensive compilation of grade scales would be interested in acquiring this comprehensive set of information.

[43] The university submits that the disclosure of the record could reasonably be expected to prejudice its economic interests and competitive position. In particular, it argues that it competes with other universities to attract students and that the information in the record, if disclosed, would identify the institutions and countries where it has recruited students both inside and outside Canada. This information, the university submits, could be reasonably expected to provide competing universities with insight into its recruitment strategies inside and outside Canada. Other universities could use the information for their own admission purposes that are in direct competition with its recruitment and admission activities, thereby prejudicing the university's competitive position. In addition, the university argues that the data set in the record would have significant value if the university were to sell them to other higher educational institutions across the world that recruit on an international level. The university goes on to argue that it has knowledge that other universities have not invested the resources to develop such a comprehensive set of data. These universities, it concludes, would benefit from receiving the requested information.

[44] The university further argues that each year, it competes with other universities to bring the best students to their institutions and, in doing so, they invest many resources in its recruitment and admission processes. The information in the record, the university submits, consists of proprietary information that is used for admission purposes, the disclosure of which could harm its ability to recruit. In particular, the information could be a deterrent for prospective candidates, as the admission process is complex and the information at issue is only one of many considerations that could contribute to assessing a candidate's suitability and eligibility into a program. Lastly, the university submits that the exception in section 18(2) does not apply.

[45] The appellant submits that the purpose of section 18(1)(c) is to protect the ability of institutions to earn money in the marketplace, and for it to apply in this case, the university must provide evidence about the potential for harm and demonstrate a reasonable expectation of harm that is well beyond the merely possible or speculative. The appellant relies on jurisprudence to support his position. For example, he cites Orders PO-3294 and PO-3464-I, stating that they were appeals involving the university where it argued similar arguments made in this appeal. In those orders, the appellant submits, this office found that the university failed to establish that disclosure of the records at issue could be reasonably expected to result in prejudice to the university's economic interests.

[46] Further, the appellant argues that in Order PO-3233, section 18(1)(c) was found not to apply to grade data extracted from a university database. Similar to this appeal, in that order, the university had argued that disclosure of the grade data would harm its

competitive position and economic interests because of its need to compete to attract high quality candidates. In that case, the adjudicator ordered the grade data to be disclosed. The appellant submits that this office should apply the findings in that order to the facts of this appeal. The appellant argues that the university's admission practices do not amount to competing with other institutions for the purpose of earning money in the marketplace, as contemplated by section 18(1)(c). The appellant submits that, while the university competes with others for individual graduate students, competing to attract particular students is not an economic interest. In fact, the appellant argues that any competition to attract students will involve many factors, such as the university's international rankings, research programs, quality of faculty and overall reputation, and not on the methods it uses to convert the grades of its applicants during the admissions process.

[47] The appellant further submits that the university's economic interests are not impacted by which particular students it selects for admission, but by aggregate factors, such as total enrolment numbers and tuition rates. These economic factors, the appellant argues, are not dependent on the internal conversion standards used by the university to assess the relative merits of applicants. The university has presented no evidence beyond the merely possible to support a reasonable expectation of harm to its ability to earn money in the marketplace. Further, the appellant submits that there is no evidence to support the university's assertion that other higher educational institutions from across the world would have interest in purchasing a tool that is specifically tailored to converting grades to the university's particular grading system and standards.

[48] The appellant goes on to state:

> . . . [T]he university has failed to meet its burden of establishing that harm to its economic interests can reasonably be expected to result from the disclosure of these records, and any connection between the tools the University uses to convert grades from other institutions to its own internal system and its ability to earn money in the marketplace remains tenuous and highly speculative.

[49] In reply, the university submits that it disagrees with the appellant that the information contained in the record does not reveal where it is recruiting students. It reiterates that the disclosure of the information in the record could reasonably be expected to prejudice the competitive position of the university and that Order PO-3233, relied on by the appellant, is not relevant to this appeal.

Analysis and findings

Section 18(1)(a)

[50] For ease of reference, I reproduce the definition of a "trade secret" for the purposes of section 18(1)(a), as follows:

> *Trade secret* means information including but not limited to a formula, pattern, compilation, programme, method, technique, or process or information contained or embodied in a product, device or mechanism which:
>
> (i) is, or may be used in a trade or business;
>
> (ii) is not generally known in that trade or business;
>
> (iii) has economic value from not being generally known; and
>
> (iv) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.[7]

[51] I have carefully reviewed all of the representations of the parties, as well as the record itself. I find that the information contained in the record represents a "compilation" of information, as contemplated in the introductory wording of section 18(1)(a). However, the inquiry does not end there. Under section 18(1)(a), there are four sub-components that must be met in order for a record to be considered a "trade secret" under section 18(1)(a).

[52] The first is that the information may be used in a trade or business. I accept that this information is used by the university, although I think that it is arguable that the university is a trade or a business. I am also not convinced that the type of compilation in the record is not generally known in the university community or that similar compilations are not being used by other post secondary school institutions, but, in any case, my findings are not based on either the first or the second sup-components of the test in section 18(1)(a).

[53] I find that the third component of the definition of a "trade secret" for the purposes of section 18(1)(a) does not apply. I am not persuaded by the university that the type of information in the record has economic value from not being generally known. In particular, while I accept the university's position that it expended time, money, effort and specialized knowledge in maintaining the information at issue, that does not lead to the conclusion that the information at issue has economic value from not being generally known. In my view, the Average Calculator is one tool used by the university in the admissions process, which is specialized to the university. I am not persuaded by the university that this compilation of information has economic value.

[54] As a result, I find that the record is not a "trade secret" and that the first part of the three part test in section 18(1)(a) is not met. Consequently, it is not necessary for me to proceed to parts 2 and 3 of the test. As a result, I find that the record is not

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[7] Order PO-2010.

exempt under section 18(1)(a). I will now consider whether it is exempt under section 18(1)(c).

Section 18(1)(c)

[55] Once again, I have carefully reviewed the representations of the parties, as well as the record itself, and, I find that the university has not established that the disclosure of the record at issue could reasonably be expected to prejudice its competitive position as against other universities in the recruitment process. While I accept the university's argument that it competes with other universities to bring the best students to their institutions and, in doing so, invests resources in its recruitment and admission processes, I am not satisfied that the information in the record consists of proprietary information that is used for admission purposes, the disclosure of which could reasonably be expected to prejudice the university's competitive position in the recruitment process. I am not satisfied that this information could reasonably be expected to provide competing universities with insight into the university's recruitment strategies inside and outside Canada. For example, I have not been persuaded how other universities could use the information at issue for their own admission purposes that are in direct competition with the university.

[56] Turning to the appellant's arguments, his position is that the purpose of section 18(1)(c) is to protect the ability of institutions to earn money in the marketplace. The appellant submits that there is no evidence to support the university's assertion that other higher educational institutions from across the world would have an interest in purchasing a tool that is specifically tailored to converting grades to the university's particular grading system and standards, stating:

> . . . [T]he university has failed to meet its burden of establishing that harm to its economic interests can reasonably be expected to result from the disclosure of these records, and any connection between the tools the University uses to convert grades from other institutions to its own internal system and its ability to earn money in the marketplace remains tenuous and highly speculative.

[57] Further, the appellant has relied on three past decisions of this office to support his position that section 18(1)(c) does not apply to the information at issue. In my view, two of the three decisions can be distinguished from the facts in this appeal. For example, Order PO-3294 dealt with emails between the university and a representative of an affected party. The emails related solely to the appellant's work performance and termination as an intern with the affected party. Adjudicator Justine Wai found that the records related exclusively to the appellant, the disclosure of which could not be expected to cause economic harm to the university by interfering with the relationship between the university and the affected party.

[58] Similarly, in Order PO-3454-I, the records at issue were emails regarding a university professor in his role as Chair in a particular department and a fund relating to

it. The amount of the fund was public knowledge. The information at issue related to the various expenses incurred in maintaining the Chair. Adjudicator Stephanie Haly found that certain records were not exempt under section 18(1)(c), namely records in which there was a discussion about the success of an event, records setting out the attendees, donor and participants in a short course, and the details of the payment of a donation. In making her finding, Adjudicator Haly took into consideration the age of the records, and the fact that the university provided insufficient evidence that the partnerships and initiatives referred to in the records were successful or were ongoing concerns.

[59] Conversely, the appellant refers to Order PO-3233, in which the record was grade data spanning a 12-year period at a university, including the year, course name, course code, final grade, and the number of students who obtained each grade. Adjudicator Daphne Loukidelis was not persuaded that the disclosure of this type of information could reasonably be expected to cause the harms contemplated in section 18(1)(c). I agree with the appellant that the university had not provided sufficient evidence that other higher educational institutions from across the world would have an interest in purchasing a tool that is specifically tailored to converting grades to the university's particular grading system and standards.

[60] For all of these reasons, I find that the record is not exempt from disclosure under either section 18(1)(a) or section 18(1)(c). As no other exemptions have been claimed for this record, I will order the university to disclose it to the appellant.

Issue C: Did the university conduct a reasonable search for records?

[61] The appellant believes that there ought to exist additional records responsive to his request.

[62] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 24.[8] If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[63] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.[9] To be responsive, a record must be "reasonably related" to the request.[10]

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[8] Orders P-85, P-221 and PO-1954-I.
[9] Orders P-624 and PO-2559.
[10] Order PO-2554.

[64] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.[11]

[65] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.

[66] The university was asked that it respond to the following questions, in the form of an affidavit:

1. Did the institution contact the requester for additional clarification of the request? If so, please provide details including a summary of any further information the requester provided.

2. If the institution did not contact the requester to clarify the request, did it:

    a. choose to respond literally to the request?

    b. choose to define the scope of the request unilaterally? If so, did the institution outline the limits of the scope of the request to the requester? If yes, for what reasons was the scope of the request defined this way? When and how did the institution inform the requester of this decision? Did the institution explain to the requester why it was narrowing the scope of the request?

3. Please provide details of any searches carried out including: by whom were they conducted, what places were searched, who was contacted in the course of the search, what types of files were searched and finally, what were the results of the searches? Please include details of any searches carried out to respond to the request.

4. Is it possible that such records existed but no longer exist? If so, please provide details of when such records were destroyed including information about record maintenance policies and practices such as evidence of retention schedules.

Representations

[67] As previously stated, the university submits that the appellant's access request was for:

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[11] Orders M-909, PO-2469 and PO-2592.

> All "internal conversion standards," conversion scales, tables, or spreadsheets used to calculate or convert grades of applicants from any and all other institutions/countries (e.g., international universities) for purposes of calculating grades/averages for admission to programs at the University of Ottawa.

[68] The university submits that it conducted a reasonable search for records, and that it did not need to seek clarification of the request because the appellant's request contained sufficient detail to enable an experienced employee to conduct a search for responsive records. In particular, the university submits that the appellant named the specific type of records he was seeking, and the purposes for which the information contained in the records were used.

[69] The university provided its evidence by way of two affidavits. The first was sworn by the university's Registrar, and the second by the Senior Programmer Analyst (the Analyst) for the Office of the Registrar. The university advises that upon receipt of the access request, the Registrar instructed the Analyst to extract the requested information from the electronic "Average Calculator." In response, the Analyst ran a query that was developed in the past to retrieve information from the Average Calculator, which contains the grade scales and equivalences. The Analyst exported the result of this query to an Excel spreadsheet, and verified the information to ensure the quality and completeness of the data before submitting it to the Registrar. The Analyst then provided it to the Registrar, who reviewed it to ensure that it was responsive to the access request, and that there was not additional information responsive to the request. The Registrar then sent a copy of the Excel spreadsheet to the Director, Compliance and Access to Information. According to the affiants, the Analyst is an experienced employee who is very knowledgeable with the operations of the Average Calculator.

[70] The university further submits that it is unlikely that responsive records existed, but no longer exist. The grade scales contained in the Average Calculator are revised from time to time to ensure that the most recent grade scales for the listed institutions are available, but the university submits that it keeps past grade scales for the listed institutions, as these scales may still be used to assess the suitability and eligibility of candidates during the admission process.

[71] The appellant maintains that the university failed to conduct a reasonable search for records, and that the single record the university has identified is not sufficiently or completely responsive to the request. Further, the appellant argues that in its affidavit evidence, the university has provided no response or explanation as to whether it searched any other sources of information, aside from a query of its database by a computer analyst. There is no indication that any search was conducted in the offices of the Vice-Provost, and Graduate and Postdoctoral Studies.

[72] Given the evidence provided by the university that it has emphasized the scope and extent of its work in generating the internal conversion standards it uses to

calculate or convert grades of applicants from other institutions, the appellant submits that it would be very surprising if tasking a single analyst with conducting a database query would constitute a reasonable effort to identify and locate all records responsive to the request.

Analysis and findings

[73] I find that the university has provided sufficient evidence that it conducted a reasonable search for the record at issue, which I have found in Issue A to be responsive to the appellant's access request. The university has provided affidavit evidence that an experienced employee with knowledge of the information at issue gathered the information that was requested, and created a specific record that is responsive to the request. I am satisfied that the access request was clear, and I accept the university's evidence that all of the responsive information was contained in the electronic "Average Calculator."

[74] The appellant's representations indicates that the university should have looked for responsive records in other areas in its record holdings; however, given the specific nature of his request, I accept the university's position that the responsive information is in its Average Calculator and was extracted to create the record at issue in this appeal.

[75] As previously stated, the *Act* does not require an institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.[12] In the circumstances of this appeal, and given the wording of the appellant's request, which was clearly stated for access to internal conversion standards and not for other records used in the admission process, I find that the university's search for records was reasonable.

ORDER:

1. I order the university to disclose the record, in its entirety, to the appellant by **January 28, 2021** but not before **January 25, 2021**.

2. In order to verify compliance with order provision 1, I reserve the right to require the university to provide this office with a copy of the record it discloses to the appellant.

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[12] Orders P-624 and PO-2559.

3. The timelines noted in order provisions 1 and 2 may be extended if the university is unable to comply in light of the current COVID-19 situation, and I remain seized to consider any resulting extension request.

Original Signed by: December 22, 2020

Cathy Hamilton
Adjudicator