Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4673

Appeal PA20-00493

Sheridan College Institute of Technology and Advanced Learning

July 4, 2025

Summary: This appeal considers whether a college conducted a reasonable search for records related to the appellant's employment insurance application. In this order, the decision-maker finds that the college conducted a reasonable search and dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 24.

Order Considered: PO-3437.

BACKGROUND:

[1] The appellant asked Sheridan College Institute of Technology and Advanced Learning (the college) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to records between the college and Service Canada related to their employment insurance application. With their request, the appellant provided a copy of their Record of Employment (ROE) issued by the college.

[2] The college issued a decision stating that it had located one responsive record, described in an index of records attached to its decision as the appellant's ROE (the same ROE that the appellant had attached to their request).

[3] The appellant appealed the college's decision to the Information and Privacy Commissioner of Ontario (IPC), claiming that additional records exist, and challenging the

reasonableness of the college's search for responsive records.

[4] After the appellant filed their appeal, the college issued a supplemental decision stating that it had located additional records, and granting full access to six records[1] and partial access to one record.[2]

[5] The parties attempted mediation, but the appeal was not resolved because the appellant maintained that the college's search was unreasonable. The appeal was transferred to the adjudication stage of the appeal process on the sole issue of the reasonable search.

[6] An IPC adjudicator decided to conduct an inquiry and obtained representations from the parties that were shared in accordance with the IPC's *Code of Procedure* and *Practice Direction Number 7*. The appeal was then transferred to the Expedited team and to me as a case lead to continue the inquiry. I reviewed the parties' representations and determined that I did not need to hear further from the parties before issuing this order.

[7] In this order, I uphold the reasonableness of the college's search for responsive records and dismiss the appeal.

ISSUES:

[8] The sole issue to be determined in this appeal is whether the college conducted a reasonable search for records responsive to the appellant's request.

[9] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.[3] If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[10] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.[4]

[11] The *Act* does not require the institution to prove with certainty that further records do not exist.[5] However, the institution must provide enough evidence to show that it has

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[1] The released records were an email from the college to Service Canada, which attached the remaining records disclosed to the appellant.
[2] The college denied access to a collective agreement, pursuant to section 22 of the *Act* (information published or available to the public). It provided the appellant with a hyperlink to access the publicly available document.
[3] Orders P-85, P-221 and PO-1954-I.
[4] Order MO-2246.
[5] *Youbi-Misaac* v. *Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9.

made a reasonable effort to identify and locate responsive records;[6] that is, records that are "reasonably related" to the request.[7]

[12] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.[8] The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[9]

Representations

Ministry's representations

[13] The college submits that it conducted a reasonable search for records related to the request as required by section 24 of the *Act*.

[14] The college submits an affidavit of its privacy and legal counsel. The affiant states that, because of their experience with the college and the fact that they oversee the college's privacy portfolio to ensure compliance with the applicable privacy legislation, they have personal knowledge of the facts set out in the affidavit, or is based on information and belief, which they verily believe to be true.

[15] The affiant states that the individuals who searched for responsive records at the time of the request are no longer employed by the college; as a result, the college is unable to obtain affidavits from them about the searches undertaken to process this request. The affiant also explains that the affidavit was completed based on consultations with its current Associate General Counsel, Director of Information security, and Director of Human Resources, along with a review of the college's general policies, internal guidelines and procedures in conducting a search for an access request.

[16] The affiant outlines its general search protocol and advises that the search undertaken for this request was consistent with the college's general search policies and procedures.

[17] The affiant indicates that the search for this request was undertaken by the college's former Privacy Officer, with the assistance of the Director of Information Security, and the Human Resources Business Partner at that time. The time frame for the request was as specified in the request. The key words used in the search were as follows: "Service Canada", "[Requestor's name]", "employment insurance" and "appeal". The affiant states that the college's "digital and physical databases"[10] were searched for

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[6] Orders P-624 and PO-2559.
[7] Order PO-2554.
[8] Orders M-909, PO-2469 and PO-2592.
[9] Order MO-2185.
[10] The college's affidavit refers to "digital databases". My understanding is that the college is referring to various software programs and applications, such as Outlook, SharePoint, OneDrive, and Teams.

responsive records, which are the two locations where responsive records would exist based on the college's record-keeping policies and procedures.

[18] With respect to digital databases, the affiant explains that the college searched Outlook, SharePoint, OneDrive, and Teams using the search terms specified above. The college specifically searched the digital databases of the former Human Resource Business Partner. It explains that the Human Resource Business Partner would be the only individual who would have responsive records as this was the only individual who communicated with Service Canada about the appellant.

[19] The affiant states that the college searched the digital databases identified above for responsive records consistent with the college's general policies and internal guidelines and procedures. They explain that employees are required to store all records on the college's SharePoint and OneDrive databases, and to exchange communications relating to the business of the college through Outlook and Teams. As such, the college's position is that it does not have any reason to believe that responsive records would be in other digital databases.

[20] As part of its search of physical records, the affiant states that the college searched its file cabinets for hard copies of any responsive records. They explain that in accordance with the college's general policies and internal guidelines and procedures, the college's employees are required to store physical copies of information only in file cabinets.

[21] The affiant states that the college does not have any reason to believe that physical responsive records would be located anywhere other than its file cabinets or that any responsive records were destroyed.

Appellant's representations[11]

[22] In response to the college's affidavit, the appellant submits that he continues to believe that the college should have located more records responsive to their request.

[23] The appellant cites documents he has received from Service Canada in response to their access to information request to Service Canada, which they believe demonstrates the existence of additional records with the college. For example, the appellant provides a copy of an approval letter for employment insurance benefits issued by Service Canada to the college.

[24] The appellant also indicates that the college erred in limiting its search for responsive records to that of the human resources employee's records as the Service Canada letter is not addressed to this employe; instead, it is addressed to the college.

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[11] A large portion of the appellant's representations are about their employment with the college and the way their ROE was completed by the college. While I have reviewed all the appellant's representations, I only summarize the representations that are most relevant to the issue of reasonable search in this appeal.

[25] The appellant further raises concerns that the college mentions the previous human resources employee is no longer employed by the college to support their belief that the college did not conduct a reasonable search for records.

DISCUSSION:

[26] For the following reasons, I find that the college conducted a reasonable search for records responsive to the appellant's request.

[27] As noted above, the *Act* does not require an institution to prove with certainty that further records do not exist; however, it must provide enough evidence to show that it has made a reasonable effort to identify and locate records that are "reasonably related" to the request. In this case, I find that the college has done so.

[28] The college has provided evidence that experienced employees of the college conducted and assisted with searches for responsive records where the records would have reasonably been located, based on the college's policies and procedures for records storage. I accept that the search for this request is in line with the college's general search practices.

[29] It is clear the appellant has opinions about what the college should have included in its affidavit. However, the *Act* does not stipulate what information should be included in an affidavit. I must only be satisfied that sufficient evidence has been provided to establish that a reasonable search has been conducted.

[30] The appellant argues that the college should have expanded its search for responsive records because the Service Canada letter sent by mail was addressed to the college, and not directly to the college's human resources employee. It would be unreasonable to expect the college to search the record holdings of all employees simply because a letter was addressed to the college, and not to a particular employee. I note that the college's affidavit indicates that the search for this request was undertaken by the college's former Privacy Officer, with the assistance of the Director of Information Security, and the Human Resources Business Partner, who was the individual who communicated with Service Canada about the appellant.

[31] Further, I disagree with the appellant's assertion that notes from the Service Canada's is evidence that there are additional records with the college. The information from Service Canada are notes from Service Canada's telephone calls with the college's former human resources employee, where the college's employee indicates that they will speak with their manager. There is no evidence to suggest that these subsequent discussions took place in writing or that there was a written record about any subsequent discussion with Service Canada. I also note that the records disclosed to the appellant in the college's supplemental decision include records between the college and Service Canada.

[32] In addition, the appellant is relying on records received from Service Canada to support their position that additional records exist with the college, and that the college did not conduct a reasonable search for responsive records. However, I am not convinced that ordering the college to conduct another search for responsive records would yield any additional records, including any that are already in the appellant's possession from Service Canada.

[33] In Order PO-3437, Adjudicator Hale states:

> While its searches may not have uncovered all of the documents which the appellant feels ought to have been found, I am satisfied that the searches were reasonable in their scope and addressed each aspect of the request in a comprehensive fashion. I must reiterate that the Act does not require the ministry to demonstrate with absolute certainty that additional records do not exist. Rather, it is required to provide evidence that the searches which it undertook for responsive records were reasonable, given all of the circumstances present. In this case, I find that the ministry has satisfied this onus.

[34] I adopt the same approach in this order. In the circumstances of this appeal, while the college's search may not have uncovered all the documents which the appellant feels it ought to have found, I am satisfied that the college's search was reasonable in its scope and addressed the request in a comprehensive fashion. I am also satisfied that ordering the respondent to conduct further searches would not yield additional responsive records.

[35] For the reasons stated above, I find that the college has conducted a reasonable search for records responsive to the appellant request and complied with its obligations under section 24 of the *Act* and. Accordingly, I dismiss the appeal.

ORDER:

I uphold the reasonableness of the college's search for responsive records and dismiss the appeal.

Original Signed by: July 4, 2025

Alline Haddad
Case Lead