

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4704

Appeal PA23-00458

Legal Aid Ontario

August 20, 2025

Summary: An individual made a request to Legal Aid Ontario (LAO) under the *Freedom of Information and Protection of Privacy Act* for records relating to two LAO certificates and a complaint he submitted to LAO. LAO located records and provided the individual with access to them. The individual stated that LAO did not provide him with records he believes are responsive to the request.

In this order, the adjudicator upholds both LAO's interpretation of the scope of the request and its search for these records.

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

OVERVIEW:

[1] Legal Aid Ontario (LAO) received an access request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) from the appellant for records relating to services that LAO provided to him. The appellant asked for all records related to two specified LAO certificates¹ (one from 2011, the other from 2012) and records relating to a 2022 complaint that the appellant submitted to LAO's Complaint

¹ Per LAO's website, for those who qualify for its services, "LAO will provide [the applicant] with a certificate that covers the cost of a private lawyer who accepts legal aid work for a certain number of hours.": <https://www.legalaid.on.ca/our-services/>

Department. Regarding the complaint records, the appellant asked for letters from his previous lawyers from two specified dates, and for the “phone record and memos” from a telephone meeting between identified parties. The appellant specified that he was seeking records dating from April 6, 2011, to April 4, 2023 (the date of the request).

[2] After notifying an affected party, LAO issued a decision in response to the request. In that decision, LAO stated that it located 80 documents responsive to the request.²

[3] LAO provided partial access to five records, withholding some information under section 49(b) (personal privacy) of the *Act* and withholding one other record in full on the basis that it was not responsive to the request. LAO provided the appellant with full access to all other records that it located.

[4] The appellant appealed LAO’s decision to the Information and Privacy Commissioner of Ontario (IPC). A mediator was assigned to explore the possibility of resolution.

[5] During mediation, the appellant stated that he believes additional records responsive to the request exist. The appellant provided a list of records that he believes should exist and advised that LAO should have a recording of a telephone conversation that he referenced in his request, which occurred between the Director-General of LAO’s Toronto office and an identified individual. The appellant stated that he is not seeking access to the personal information withheld from the records, thereby removing the issue of the application of the personal privacy exemption to the records.

[6] After receiving the appellant’s list of additional records that he believes should exist, LAO stated that this list includes documents that fall outside of the scope of the appellant’s request and that no telephone recordings exist. Accordingly, the reasonableness of LAO’s search and the scope of the request were added as issues to the appeal. Also at mediation, LAO provided the appellant with full access to the one record it previously withheld fully, removing that record from the scope of the appeal.

[7] As mediation did not resolve the appeal, it was transferred to the adjudication stage where an adjudicator may conduct an inquiry under the *Act*. As the adjudicator in this appeal, I sought and received representations from LAO and the appellant.³

[8] In the discussion that follows, I uphold LAO’s interpretation of the scope of the appellant’s request and find LAO’s search for responsive records to be reasonable.

² In that decision, LAO also stated that it identified an additional three documents that may be responsive to the request. However, LAO was not able to print these documents at that time, stating that they had not been attached to its database system and no hardcopies had been kept. LAO was able to obtain copies of these documents in a later search of its systems and subsequently provided these three documents to the appellant.

³ These representations were shared in accordance with the IPC’s *Code of Procedure*.

ISSUES:

- A. What is the scope of the request?
- B. Did LAO conduct a reasonable search for responsive records?

DISCUSSION:

Issue A: What is the scope of the request?

[9] When asked about the scope of his request, the appellant referred to a list of documents he attached to a May 16, 2023, email (the complaint email) that he sent to a representative of LAO's Complaint Department. The appellant submits that the documents attached to that email are within the scope of his request.

[10] LAO submits that the appellant's request was for three sets of records:

- All records regarding the 2011 LAO Certificate (including date of acknowledgement by the lawyer, memos, correspondence, etc.)
- All records regarding the 2012 LAO Certificate (including date of acknowledgement by the lawyer, memos, correspondence, etc.)
- All records relating to the appellant's July 2022 complaint to LAO's Complaint Department (including letters from the appellant's previous lawyer from specified dates in 2022 and 2023, and phone record and memos from a telephone meeting between LAO's Director-General of its Toronto office and another named individual.

[11] LAO also states that the appellant's request form stated that he was seeking records dating from April 6, 2011, to April 4, 2023.

[12] LAO submits that the appellant's request was clearly worded and understandable. After receiving this request, LAO states that it searched the entirety of the two client files related to the specified certificates, as well as the entirety of the appellant's complaint file.

[13] LAO submits that during mediation of this appeal, it made efforts to locate records that the appellant was seeking, regardless of whether these were within the scope of the appellant's request, stating:

Throughout the mediation process, LAO entertained considerable expansion of the scope of the appellant's request, choosing to interpret the request generously, but after several rounds of mediation concerning the records within and outside the scope of the request, LAO requested

the appellant make a new request for the specific documents he had indicated to us, and which were not found during our searches. It was following this request that the mediation failed.

LAO felt that a new request was warranted for the specific list of documents identified by the appellant as missing from the client and complaints files. Our office repeatedly indicated that some of the records were contained in the initial release package under different names, and that others were provided during the mediation. The balance of records were simply never in our possession and that answer was not accepted during the mediation process.

[14] LAO states that the appellant's request for the documents listed in the complaint email was the third request for additional documents that the appellant made during mediation. At that point, LAO states that they advised the appellant to make a new access request for any additional records he was seeking.

[15] 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, and specify that the request is being made under this Act;

(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).

[16] To be considered responsive to the request, records must "reasonably relate" to the request.⁴ Institutions should interpret requests liberally, in order to best serve the purpose and spirit of the *Act*. Generally, if there is ambiguity in the request, this should be resolved in the requester's favour.⁵

[17] In his representations, the appellant did not dispute LAO's summary of his

⁴ Orders P-880 and PO-2661.

⁵ Orders P-134 and P-880.

request. Rather, he asserts that documents he provided to LAO's Complaint Department a month after he made his access request are responsive to his access request. Those individual documents may well be within the scope of his request, if held elsewhere by LAO, but only if they themselves fall within the parameters of the access request the appellant made to LAO. While requests are to be interpreted liberally, the appellant's request is clear that he is seeking documents from 2011 until the date of the access request. The appellant sent his email to LAO over a month after he made his access request, such that the email itself and any documents created after the date of the request would fall outside the scope of the request.

[18] The appellant providing a list of documents he is seeking does not alter the scope of the request that he detailed in his access request. I agree with LAO that the appellant's request is clearly worded and understandable, and I uphold LAO's interpretation of the appellant's request.

Issue B: Did LAO conduct a reasonable search for responsive records?

[19] The appellant states that LAO did not locate documents that he believes are responsive to his request, and on this basis, submits that LAO did not conduct a reasonable search for records. The records that the appellant identified as missing are the documents attached to the complaint email, and a transcript or memo from the phone meeting specified in the third part of his access request.

[20] The appellant states that following this phone call between his former lawyer and the Director-General of LAO's Toronto office, LAO dismissed the complaint the appellant made against this lawyer. The appellant questions whether it was normal procedure to close a complaint via a phone call without making any record of the conversation.

[21] LAO provided an affidavit from the manager of its Privacy and Information Management Office (PIMO) that set out the search that LAO conducted. The manager states that LAO searched its PeopleSoft client management system, which contains its client files. LAO states that complaint files are stored in a separate system, and the Complaint Department provided PIMO with the appellant's entire complaint file, which it then searched.

[22] LAO states that it performed a second search of PeopleSoft and the appellant's complaint file during mediation of this appeal. In addition, LAO inquired with its Hamilton District Office, which handled the two certificates at issue, to see if any records were saved outside of PeopleSoft or the complaints file.

[23] LAO notes that the appellant's former lawyer was acting as one of LAO's roster lawyers, explaining that such lawyers receive certificates but are not LAO employees. LAO states that it would only have custody or control of roster lawyer records if they submitted these records to LAO for a specific purpose, such as for billing or authorization of legal work.

[24] Regarding the documents listed with the complaint email, LAO notes that the document names do not follow LAO's file naming conventions and include spelling errors. LAO speculates that the document names are titles that the appellant or his former lawyer gave to the documents, and further notes that these documents appear to have been sent to the appellant directly by his counsel. LAO's position is that the lack of adherence to its naming convention means these files were not saved in LAO's systems, at least under the document names provided by the appellant. LAO notes that it may have provided the appellant with some of these documents already, albeit saved under different names.

[25] 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*.⁶ If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. Otherwise, I may order the institution to conduct another search for records.

[26] 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.⁷

[27] The *Act* does not require LAO to prove with certainty that further records do not exist. However, LAO must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;⁸ that is, records that are "reasonably related" to the request.⁹

[28] 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.¹⁰

[29] Based on its description of the searches conducted, I find LAO made a reasonable effort to locate records that are reasonably related to the request. LAO twice searched the relevant client services files related to the certificates that the appellant specified, as well as searching the complaint file for records relating to the complaint that the appellant specified. In addition, LAO also checked with the district office to see if it had any records outside of these locations. The LAO staff member responsible for the searches did so under the direction of the PIMO's manager and co-ordinator.

[30] The appellant's arguments against LAO having conducted a reasonable search are not based on the descriptions of the searches themselves, but rather on these searches having not located what he views as responsive records – namely, the

⁶ Orders P-85, P-221 and PO-1954-I.

⁷ Orders M-909, PO-2469 and PO-2592.

⁸ Orders P-624 and PO-2559.

⁹ Order PO-2554.

¹⁰ Order MO-2246.

documents listed in the complaint email and documentation of a telephone call between an identified LAO Director-General and the appellant's former lawyer.

[31] It is possible that some of the documents the appellant attached to the complaint email were in LAO's custody prior to being provided with the complaint email. However, LAO notes that the document names indicate they originated with the appellant or his former counsel, and that the naming conventions are not those used by LAO. LAO states that without more information on these records, it could not search for them.

[32] The appellant denies that he did not provide LAO with more information on these documents, beyond providing the list of documents to LAO. However, he does not specify what further information he provided to LAO so that they could locate these records under other names.

[33] I do not agree with the appellant that LAO failing to locate the listed documents raises a reasonable basis for concluding that additional responsive records exist. The appellant made a request for records relating to two LAO certificates and a July 2022 complaint to LAO; those are the records that LAO searched for. The appellant's evidence shows that the LAO was sent the listed documents, but this occurred outside of the time frame of the appellant's request. The appellant has not explained why such documents would have been responsive to his request, given its date range, and LAO has provided an explanation as to why the documents likely originated from a source outside of LAO, based on the naming convention.

[34] I note that it may be possible for LAO to independently find more information about the listed records. It could do so by retrieving the complaint email, examining the attached documents, and searching to see which of these documents it has in its custody or control. In my view, this goes well beyond a reasonable effort to locate records that are reasonably related to a time-limited request for records relating to two certificates and records of a telephone call.

[35] Regarding the records of the phone call, the appellant has expressed doubt that a complaint could be closed without a record of the conversation that the appellant believed led to that closure. He also asks if there is a sworn statement that the telephone conversation was not recorded.

[36] As noted above, institutions are not required to prove with absolute certainty that further records do not exist. LAO is not required to swear that no record of the telephone call exists; it must only demonstrate that it has made a reasonable effort to identify and locate responsive records. I have already found that LAO searching the appellant's complaint file twice for relevant records, together with making inquiries of the district office, was a reasonable search. The appellant's assertion that these records should have included a call recording or memo documenting the call does not provide a reasonable basis for concluding that such records exist.

[37] For the reasons stated above, I find that LAO conducted a reasonable search for responsive records as required by section 24 of the *Act*.

ORDER:

I uphold LAO's search for responsive records as reasonable and dismiss the appeal.

Original Signed By: _____
Jennifer Olijnyk
Adjudicator

August 20, 2025