Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4792

Appeal PA20-00490

Sheridan College Institute of Technology and Advanced Learning

February 27, 2026

Summary: The appellant made a request to the college for access to records relating to meetings or discussions between specific dates about his employment. The adjudicator finds that some records are outside the scope of the request. She finds that the remaining responsive records are excluded from the *Act* under section 65(6)3 because they are employment-related records in which the college has an interest, and that no exception in section 65(7) applies. The adjudicator upholds the college's search for responsive records as reasonable and finds no bias or conflict in the processing of the request. She dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 24, 65(6)3 and 65(7).

Orders Considered: Orders P-880 and P-1242.

OVERVIEW:

[1] The appellant made a request to Sheridan College Institute of Technology and Advanced Learning (the college) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to records relating to meetings or discussions concerning his employment. In his request, he referred to an email sent to specific employees inviting them to a meeting or discussion to determine whether his employment was salvageable, and sought access to:

> …all records, including but not limited to, reports, notes, memos, briefing notes, discussion notes, schedule of meetings, meeting preparations, attendance list at meetings, book of documents, voice mails, emails, and audio between 07 February 2017 and 01 March 2017 relating to [the appellant] and the employment relationship between [the appellant] and Sheridan College.

[2] The college located responsive records and issued a decision denying access to them on the basis that they are excluded from the *Act* under section 65(6), which provides that the *Act* does not apply to certain employment or labour relations records.[1]

[3] The appellant appealed to the Information and Privacy Commissioner of Ontario (IPC). A mediator was appointed to explore resolution.

[4] During mediation, the college maintained that the records are excluded under section 65(6). It also took the position that some of the records fall outside the scope of the request because they fall outside of the time period specified in it. The appellant, meanwhile, asserted that the college failed to comply with its duty to assist him and that the college was influenced by his identity when processing his request. As a result, the scope of the request, the reasonableness of the college's search for responsive records, and allegations of conflict of interest or bias in the processing of the request were added as issues in the appeal.

[5] As the appeal was not resolved at mediation, it was moved to the adjudication stage of the appeal process. I conducted a written inquiry and received written representations from both parties.

[6] In this order, I find that certain records fall outside the scope of the request and that the remaining responsive records are excluded from the *Act* under section 65(6)3, and that no exception under section 65(7) applies. I also uphold the college's search as reasonable. I find that no bias or conflict of interest in the processing of the request has been established, and I dismiss the appeal.

RECORDS:

[7] There are five records at issue, consisting of meeting notes and email correspondence.

[1] The college granted access in full to one of six responsive records. The remaining five are at issue in this appeal.

ISSUES:

A. What is the scope of the request? What records are responsive to it?

B. Does the section 65(6) exclusion for records relating to labour relations or employment matters apply to the records at issue?

C. Did the college conduct a reasonable search for responsive records?

D. Has bias or conflict of interest, or a reasonable apprehension of either, been established?

DISCUSSION:

Issue A: What is the scope of the request? What records are responsive to it?

[8] Section 24 of the *Act* sets out the requirements for making an access request and the corresponding obligations of institutions. It requires a requester to submit a written request that provides sufficient detail to enable an experienced employee of the institution, upon reasonable effort, to identify the records sought. One purpose of section 24 is to ensure that institutions can identify records that are responsive to a request.

[9] The college submits that the request was clear and provided enough detail to enable it to identify responsive records, as required by section 24. It states that the request referred to an email sent on a specific date by a named employee to specific individuals, inviting them to a meeting and/or discussion about whether the appellant's employment was salvageable. The college submits that the request explicitly limited its scope by date, participants and subject matter, and that records falling outside the specified date range, not involving the named individuals, or unrelated to the appellant's employment, are not responsive.

[10] The appellant submits that there is no dispute that the request was clear and says his request provided sufficient detail to meet the requirements of section 24. He further notes that the fact that college did not seek clarification demonstrates that it understood the scope of the request and the records sought.

[11] In Order P-880, on which the college relies, the adjudicator stated:

> …the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to a request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request. I am of the view that, in the context of freedom of information legislation, "relevancy" must mean "responsiveness". That is, by asking whether information is "relevant" to a

> request, one is really asking whether it is "responsive" to a request. While it is admittedly difficult to provide a precise definition of "relevancy" or "responsiveness", I believe that the term describes anything that is reasonably related to the request.

[12] I agree with and adopt this reasoning, which has guided subsequent IPC orders. A request sets the parameters of an institution's search and defines the boundaries of what is responsive. As noted above, in determining responsiveness, the question is whether a record is reasonably related to the request as framed by the requester. Although institutions must interpret requests broadly and in a manner that best serves the purposes of the *Act*,[2] they are not required to expand a request beyond its clear wording or to treat records as responsive where they fall outside the limits the appellant has chosen to impose.

[13] In this case, the appellant's request seeks access to records relating to meetings or discussions about his employment within a defined period of time. Where the appellant specifies a date range or participants, the college is entitled to rely on those parameters in determining responsiveness and is not required to assume that records outside of those parameters are intended to be included, even if its search may yield some records that fall outside the dates or terms specified in the request.

[14] Based on the wording of the request and the parties' representations, I find that records falling outside the specified time period, or otherwise outside the parameters defined by the appellant in his request, are not responsive to the request. They are therefore not at issue in this appeal.

[15] I will next consider whether the responsive records that are before me are excluded under section 65(6).

Issue B: Does the section 65(6) exclusion for records relating to labour relations or employment matters apply to the records at issue?

[16] Section 65(6) of the *Act* excludes certain classes of records from the scope of the *Act*. Where it applies, the *Act* does not govern access to the records at issue, and the general right of access in section 4(1) does not arise. This does not preclude disclosure through other means; it simply means that the *Act* does not confer a right of access to these records.[3]

[17] Section 65(6) provides that, subject to the exceptions in section 65(7), the *Act* does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to the following labour relations or employment-related matters

[2] Orders P-134 and P-880.
[3] See Orders MO-2242, MO-2282 and PO-3519.

1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.

2. Negotiations or anticipated negotiations relating to labour relations or to the employment of a person by the institution between the institution and a person, bargaining agent or party to a proceeding or an anticipated proceeding.

3. Meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest.

[18] The phrase "in relation to" has been interpreted broadly and requires only "some connection" between the records and the matters described in the relevant paragraph. The college bears the onus of establishing that each element of the exclusion test is met.[4]

[19] If section 65(6) applies to the records, and none of the exceptions in section 65(7) is engaged, the records are excluded from the *Act*. If records are excluded from the *Act*, it simply means that the access scheme in the *Act* does not apply to them.

[20] Section 65(7) sets out limited exceptions to the exclusions in section 65(6). Where an exception applies, the record remains subject to the *Act*.

[21] The college relies on paragraph 3 of section 65(6). For the exclusion in section 65(6)3 to apply, the college must establish that:

1. The records were collected, prepared, maintained or used by the college or on its behalf;

2. This collection, preparation, maintenance or use was in relation to meetings, consultations, discussions or communications; and,

3. These meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the college has an interest.

Representations, analysis and findings

Part 1: collected, prepared, maintained or used

[22] The college submits that the records were collected, prepared, maintained and used by it in the course of addressing workplace concerns raised by the appellant during his employment. The college states that it convened a series of meetings, some involving the appellant and others limited to internal staff, to discuss the appellant's multiple grievances and appropriate steps to address them. The college submits that the records were generated and used as part of its internal review and deliberative process and were created and maintained for its use in considering and addressing an employment-related

[4] *Ontario (Attorney General) v Toronto Star and Information and Privacy Commissioner*, 2010 ONSC 991 (Div. Ct.).

matter.

[23] The appellant does not dispute that the records were collected, prepared, maintained or used by the college in the course of addressing workplace concerns raised by him during his employment. He submits that the records should not be excluded because they form part of a broader pattern of wrongdoing and relate to matters of public accountability. He raises concerns about compliance with human rights legislation and argues that disclosure is warranted in the public interest. The appellant further contends that applying the exclusion to records of meetings, discussions, and related internal communications would shield the college's decision-making from scrutiny and permit it to act without accountability.

[24] I find that the first requirement of section 65(6)3 is met. The records were created and used by the college in the context of managing workplace concerns involving the appellant. On the materials before me, they were collected, prepared, maintained or used by the college in the course of carrying out its employment responsibilities.

[25] The appellant's broader concerns about accountability do not alter my finding. The question under part 1 is whether the records were collected, prepared, maintained or used by the college or on its behalf. I am satisfied that they were.

Part 2: meetings, consultations, discussions or communications

[26] The college submits that the records were created and used in connection with meetings, consultations, discussions, and communications relating to the appellant's workplace concerns and the employment relationship, and that the records are directly connected to its internal deliberations concerning the appellant's employment. The appellant does not directly address this part of the test.

[27] I find that the second requirement of section 65(6)3 is met. It is clear from the records and the representations before me that the records arise from exchanges and internal communications that occurred as the college considered how to address the appellant's workplace concerns. I am satisfied that their collection, preparation, maintenance and use was in relation to the appellant's employment by the college, and that there is therefore some connection between the records and the identified meetings, discussions or communications.

Part 3: labour relations or employment matters in which the college has an interest

[28] The college submits that the records concern employment-related matters because they relate to its management of the appellant's employment and its response to grievances he filed. It states that the records document internal meetings, consultations and deliberations regarding the employment relationship and the institutional response to the appellant's concerns.

[29] The college further submits that it had a direct legal interest in these matters. It

says that its employment relationship with the appellant was governed by a collective bargaining agreement and that the college was required to address grievances in accordance with its legal obligations under that agreement. The college says that failure to comply with those obligations could impact the outcome of grievances, or result in arbitration proceedings and potential legal consequences, and affect the college's legal rights and responsibilities as an employer.

[30] The phrase "in which the institution has an interest" requires that the college's stake in the matter be grounded not simply in its general concern as an employer. The college relies on Order P-1242, in which Assistant Commissioner Tom Mitchinson considered the meaning of the term "interest" in section 65(6)3 and held that an interest is more than mere curiosity or concern. In this case, the records relate to the college's management of the appellant's employment, including the handling of the appellant's workplace concerns and the status of the employment relationship. These matters had the potential to affect the college's rights and obligations as an employer, including through grievance or arbitration proceedings.

[31] Although the appellant was a unionized employee, the records concern the college's management of his individual employment relationship rather than collective bargaining negotiations with a bargaining agent. I am satisfied that they are about employment-related matters within the meaning of section 65(6)3 and that the college has an interest in those matters as an employer. I find that the third part of the three-part test in section 65(6)3 is established.

[32] Having found that the requirements of section 65(6)3 are met, the records are excluded from the *Act*, unless, as the appellant argues, an exception in section 65(7) applies.

Section 65(7): exceptions to the exclusion in section 65(6)

[33] Section 65(7) sets out limited exceptions to the exclusions in sections 65(6). Where one of these exceptions applies, the record is not excluded from the *Act* and remains subject to the access scheme. In general terms, section 65(7) applies to certain agreements between an institution and a trade union; certain agreements between an institution and employees that resolve labour relations or employment-related matters, and certain expense accounts. The effect of sections 65(7) is to bring these defined categories of records back within the scope of the *Act*.

[34] The appellant submits that agreements exist involving the college that relate to human rights matters and arbitration proceedings. He refers to (i) an agreement between the college and his union concerning alleged human rights issues; ii) an agreement between the Ontario Human Rights Commission and the college that he says resulted in the hiring of a director of human rights and equity initiatives; and (iii) what he describes as a secret agreement connected to an arbitration decision. He argues that, in light of such agreements, applying the exclusion in section 65(6) would shield the college from

accountability.

[35] For section 65(7) to apply, the record itself must fall within one of the enumerated categories described in that section.

[36] The appellant has not identified a specific paragraph in section 65(7) that might apply, nor has he established that the records at issue consist of, or form part of, any agreement of the type contemplated by that section. The fact that agreements may exist between the college and a union, or between the college and another entity, does not, by itself, bring unrelated records within section 65(7).

[37] The records before me consist of internal communications among college staff regarding the appellant's employment. There is no evidence that they are, or relate to, agreements between the college and the appellant's union, settlement agreements, or expense accounts as contemplated by section 65(7). Accordingly, I find that none of the exceptions in section 65(7) applies.

[38] As section 65(6)3 applies and no exception under section 65(7) is engaged, the records are excluded from the *Act*.

Public interest and Human Rights Code arguments

[39] The appellant argues that the records should not be excluded because disclosure is in the public interest, particularly in light of his allegations of reprisal and secret agreements. Section 65(6) excludes records based on their nature and the context in which they were collected, prepared, maintained or used. Unlike certain exemptions under the *Act*, there is no public interest override to the exclusions in section 65(6). Public interest considerations cannot bring the records within the scope of the *Act*.

[40] The appellant further submits that the exclusion in section 65(6) cannot supersede the *Human Rights Code*. Where section 65(6) applies, the *Act* does not apply to the records. In those circumstances, I have no jurisdiction under the *Act* to consider the appellant's arguments in this regard.

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

[41] Where a requester claims 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.[5] If I am satisfied the search carried out was reasonable in the circumstances, I will uphold the college's decision. If I am not satisfied, I may order further searches.

[42] The *Act* does not require the college to prove with absolute certainty that further records do not exist. However, the college must provide sufficient evidence to show it

[5] Orders P-85, P-221 and PO-1954-I.

has made a reasonable effort to identify and locate responsive records.[6] 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 (responsive) to the request.[7]

[43] Although a requester will rarely be in a position to indicate precisely which records an institution has not identified, the requester must still provide a reasonable basis for concluding such records exist.[8]

Representations

[44] The college relies on an affidavit sworn by its privacy and legal counsel. According to the affidavit, the college follows a standard protocol when responding to access requests, including identifying relevant departments or business units, informing them of the scope of the request, engaging the IT department to conduct searches of electronic systems using keywords drawn from the request, and reviewing records located for responsiveness.

[45] The affidavit states that the search in this case was conducted in accordance with the college's policies and procedures and was undertaken by the then-privacy officer, with the assistance of the director of information security and human resources business partner. The search was limited to the date range specified in the request and used keywords derived from the request, including the appellant's name and terms relating to his employment.

[46] The affidavit indicates that searches were conducted in both electronic and physical record holdings where responsive records would reasonably be expected to be found, based on the college's record-keeping practices. Electronic searches included Outlook, SharePoint, OneDrive and Teams, and the accounts of employees identified in the request because employees are required to store business-related records in these systems.

[47] The college also states that relevant physical file cabinets were searched for hard copy records. It submits that there is no reason to believe that additional responsive records would exist outside the locations searched.

[48] The appellant relies on testimony given in another proceeding in the year following his request to support his belief that additional records exist, and to challenge the college's characterization of meetings about his employment. He asks whether the college searched for responsive records using key terms derived from that testimony, arguing that the information revealed in the later testimony would have broadened the search had it been considered. He also argues that the fact that the individuals who conducted

[6] Orders P-624 and PO-2559.
[7] Orders M-909, PO-2469 and PO-2592.
[8] Order MO-2246.

the original search are no longer employed by the college calls into question the reliability of the college's evidence about the reasonableness of its search.

Analysis and findings

[49] On the evidence before me, I am satisfied that the college made a reasonable effort to identify and locate records responsive to the request. The affidavit sets out who conducted the search, the systems and physical locations examined, the date range applied and the keywords used. It also explains why those electronic repositories and physical locations are where responsive records would reasonably be expected to be found, given the college's record-keeping practices.

[50] I am not persuaded that the fact that the original searchers are no longer employed by the college undermines the reliability of the affidavit evidence. The affidavit describes the college's standard access procedures and states that the search was conducted in accordance with them.

[51] In the circumstances, I find that the appellant has not provided a sufficient basis to conclude that additional records are likely to exist in response to his specific request. I find that the college was entitled to rely on the wording of the request in determining appropriate search terms and was not required to expand or revise its search later, based on information that the appellant says emerged in subsequent legal proceedings. The appellant's submission that this later testimony may reflect a different characterization of discussions during meetings about his employment does not establish that additional responsive records exist, or that the search conducted for records responsive to the request as it was framed was unreasonable.

[52] The request was defined by specific parameters, including a defined date range and subject matter. It was reasonable for the college to conduct its search based on the wording of the request. The *Act* does not require an institution to expand its search by reference to information revealed in separate proceeding or to search for terms drawn from materials external to the request itself.

[53] In the circumstances, I uphold the college's search as reasonable.

Issue D: Has bias or conflict of interest, or a reasonable apprehension of either, been established?

[54] The appellant alleges that the college failed to process his request in accordance with its duty to assist and that its response was influenced by his identity. He submits that the college should have been aware of the testimony given in a separate proceeding (summarized above) concerning meetings about his employment and the decision to terminate it. He argues that, even if the college was not aware of this testimony at the time of the original search, it was aware of it once the testimony was given and should have expanded its search.

[55] The appellant further argues that the college's handling of the request was influenced by his identity, his health issues, and history with the college. He argues that the college has demonstrated a pattern of adverse conduct toward him and suggests that it has a conflict of interest arising from a desire to block disclosure because of the appellant's intention to publish a study about what he alleges are the college's human rights abuses.

Analysis and findings

[56] The issue before me is whether the college failed to process the request in accordance with its obligations under the *Act*, including its statutory duty to assist, and a broader obligation to process the appellant's request in accordance with the *Act*.

[57] As set out above, the college received the request, determined it to be clear and specific, conducted a search using the parameters set out in the request, and issued a decision. I have found that the search was reasonable and that the responsive records are excluded under sections 65(6)3.

[58] As for the appellant's submission that the college should have expanded its search in light of the above-described testimony, as I have also found above, the college's obligation was to respond to the request as framed, subject to any requirement to seek clarification. The request specified a defined date range and parameters, and the appellant agrees that it was clear and did not require clarification. The *Act* does not require an institution to speculate about records beyond the request or to revise its search by reference to information that is not part of the request.

[59] The appellant also raises broader concerns about the college's history with him and what he says are the college's motives to block disclosure. While those concerns are strongly expressed, there is no evidence before me that the college's processing of this request was influenced by the appellant's identity, personal circumstances, or his employment history. The request was processed in accordance with the college's ordinary access procedures. The fact that the request relates to a dispute between the parties does not, on its own, establish bias or a conflict of interest. Institutions routinely process requests concerning their own operations.

[60] On the material before me, there is no evidence that the college's handling of the request was affected by bias or that any conflict of interest existed, including in relation to the appellant's stated intention to publish a study. The appellant has not established that the college failed to meet its obligations under the *Act*, that it processed the request with partiality, or that it had a conflict of interest in doing so.

[61] For the foregoing reasons, the appeal is dismissed.

ORDER:

I uphold the college's decision and search, and dismiss the appeal.

Original Signed by: February 27, 2026

Jessica Kowalski
Adjudicator