

**THE NOVA SCOTIA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT**

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT OF EDUCATION** to deny the existence of documents related to an application for access.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **March 8, 2002**

ISSUE: The Applicant challenges the assertion of the Department of Education that there are no documents which provide the dates being asked for.

In a Request for Review, under the **Freedom of Information and Protection of Privacy Act**, dated January 2, 2002, the Applicant asked for a review of the decision of the Department of Education (the Department) to deny the existence of documents related to information on a financial decision of the Strait Regional School Board.

The Applicant asked for documents showing the dates on which the Minister and Deputy Minister learned that the School Board had paid funds “with respect to the personal loan guarantee” to a Board official.

The Department replied that the Minister and Deputy Minister were notified verbally. It said no documents identifying dates existed. The Applicant was provided with the dates on which the Deputy Minister first learned of the possibility of the payments, the

confirmation of the payment, and when the Minister was notified. The Department believes these dates were widely reported in the media.

The Applicant, in a representation to the Review, said he believes the Department interpreted his application too narrowly because the information he sought included “any and all records, reports, memoranda, background information, notes, briefing notes, communication plans, advice, telephone call notes, telephone logs, orders, directives, or correspondence’ relating to the issues that form the subject matter of my request.” He said the words “relating to” would include records that “discuss and/or mention dates upon which” the facts of the payment was known.

The Applicant also complained that the Department was late in providing a decision on his application. The decision was provided in a letter dated December 7, two days after the thirty day time limit had run out. The decision was faxed to the Applicant the same day.

Conclusion:

Nothing the Applicant wrote in his representation would suggest he was looking for documents that did not include dates. The Department sent me an e-mail “to confirm that there are no documents that indicate the date that the Deputy Minister and Minister were informed of the payments.”

The Department may have been well advised to ask the Applicant directly if he wanted all documents related to the matter.

With respect to the delay, missing the deadline by two days is usually regarded as a venial sin. However, if it were ready for the Deputy Minister's signature earlier then it should have been attended to. Deputy Ministers are busy people with a lot of paper waiting for their attention. However, meeting the time limit for a decision is a statutory obligation which expects senior bureaucrats whose signatures are required to ensure against delay.

Having received assurances from the Department, I have no reason to believe that documents containing the dates requested by the Applicant exist.

Dated at Halifax, Nova Scotia, March 8, 2002.

Darce Fardy, Review Officer