



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2011-005

March 31, 2011

College of the North Atlantic

Summary:

The Applicant applied to the College of the North Atlantic under the *Access to Information and Protection of Privacy Act* (the “ATIPPA”) for records containing her personal information which had been sent to the Canadian Information Processing Society in connection with an accreditation process. The College granted access to all responsive records found as a result of its search, subject to the severing of some personal information. The Applicant was not satisfied that the search had been properly conducted or that all responsive records had been provided to her, and requested that this Office review the decision of the College, stating that the College had failed to fulfill its duty to assist the Applicant under section 9 of the *ATIPPA*. The Commissioner concluded that the College had assisted the Applicant in the early stages of the request, had conducted a reasonable search for the requested records and had responded to the Applicant in an open, accurate and complete manner at all stages of the access and review processes, and consequently had fulfilled its duty to assist the Applicant. As a result the Commissioner made no recommendations arising out of this Review.

Statutes Cited:

Access to Information and protection of Privacy Act, SNL 2002, cA1.1, as amended, section 9.

Authorities Cited:

Newfoundland and Labrador OIPC Report A-2009-011.

I BACKGROUND

[1] On March 7, 2007 the Applicant filed a two-part request under the *Access to Information and Protection of Privacy Act* (the “ATIPPA”) with the College of the North Atlantic (“CNA” or “the College”) for access to records as follows:

1. *All records that reference [name of Applicant] sent to the Canadian Information Processing Society (CIPS). This would include but is not limited to information for accreditation of the Qatar Campus of the College of the North Atlantic, a copy of my resume, any forms that contain my name or any of my personal information, and any portfolios that I created while I was a member of the faculty at CNA-Q.*
2. *All correspondence that contains a reference to [name of Applicant] or any personal information sent to or copied to CNA employees regarding accreditation of the ICT programs at the Qatar Campus of the College of the North Atlantic.*

[2] The Canadian Information Processing Society (“CIPS”) is a Canadian organization of information technology (“IT”) professionals that sets standards within the profession, certifies individuals as IT professionals and offers accreditation of computer science and software engineering programs at Canadian universities and colleges. An accreditation process, by an independent agency such as CIPS, assesses a program against accepted industry standards and provides a benchmark for the evaluation of that program. It is accordingly a sought-after recognition of quality. In 2005-2006 the College, at its campus in Doha, Qatar (“CNA-Q”) underwent a CIPS evaluation that resulted in the accreditation of the Computer Support Specialist and Programmer Analyst programs.

[3] CNA acknowledged the Applicant’s request on March 9, 2007 and on March 23, 2007 wrote again to the Applicant suggesting criteria for conducting the search. For the first part of the request, CNA proposed that all of the formal submissions made to CIPS between January 1, 2004 and December 31, 2005, in the files of the individual who had been the Accreditation Coordinator, be searched for reference to the name of the Applicant. For the second part of the request, CNA stated that in addition to the Accreditation Coordinator, there were four named individuals who were the

key personnel involved in the accreditation process, and that their records would therefore be the appropriate place to search. CNA stated, however, that the records of the other four individuals had been already searched for references to the Applicant in a previous access request (referred to as “PB/19/2006”) and any responsive records would have already been provided to the Applicant. Therefore CNA proposed that the records of the Accreditation Coordinator should be searched for references to the Applicant between January 1, 2004 and December 31, 2005, using the first name and part of the last name of the Applicant as the search keywords. In that correspondence CNA also extended the 30 day time limit under section 16 of the *ATIPPA* for responding to the request by a further 30 days (i.e. to May 7, 2007) in order to get additional information from the Applicant to properly identify the records sought and to confirm the search criteria.

- [4] On March 30, 2007 the Applicant replied to the College confirming that the search keywords proposed by CNA for the electronic search were acceptable and raising a number of concerns and suggestions.
- [5] First, the Applicant asked CNA to confirm that the search in PB/19/2006 had been conducted after March 1, 2006, in order to ensure that it would have captured records related to a final CIPS site visit to CNA-Q in February 2006.
- [6] The Applicant observed that the PB/19/2006 search did not search e-mail attachments unless the e-mail itself contained a reference to the Applicant, and stated that therefore the present search should include all e-mail attachments in the accounts of the four named individuals for the period January 1, 2004 to March 1, 2006.
- [7] The Applicant also asked CNA to confirm that the Accreditation Coordinator and the other four named individuals were the only personnel involved in the accreditation process.
- [8] The Applicant restated the first part of her request as being for all records (formal or otherwise) sent to CIPS or reviewed by CIPS during any site visit between January 1, 2004 and March 1, 2006 referencing the Applicant. The Applicant restated the second part of the request as being for all records including e-mail attachments that reference the Applicant in the records of the five named individuals that had not previously been released.

[9] On April 16, 2007 the College responded to the Applicant's reply. It confirmed that the previous search of the e-mails of the four named individuals had been conducted after March 1, 2006. It stated that the e-mail system at the Qatar campus did not have the ability to perform an electronic keyword search on e-mail attachments, and that to search attachments manually would be so labour-intensive as to constitute unreasonable interference with the operations of the campus within the meaning of section 10 of the *ATIPPA*.

[10] Similarly, the College advised that the five named individuals were identified as the key personnel involved, though that list was not meant to be exhaustive. The College stated, however, that in order to complete the search without unreasonable interference with its operations, it would be limiting its search to those key individuals.

[11] CNA reiterated that it would therefore not repeat any part of the search that was covered by the earlier request. CNA agreed to extend the time period covered by the request to March 1, 2006. It also proposed to reformulate the request as "all records including attachments that reference the Applicant sent to, from or copied to the Accreditation Coordinator between January 1, 2004 and March 1, 2006." In CNA's view any information around site visits by CIPS would be captured using those criteria.

[12] The Applicant replied to CNA on April 23, 2007. The Applicant stated that she had been informed that, although the CNA-Q server was limited in its ability to search attachments, that was no longer the case for the server in Newfoundland. Therefore, reasoned the Applicant, it should not be a problem to search the accounts of the Accreditation Coordinator and one of the other individuals on the list, since those two individuals were located in Newfoundland and used the CNA Newfoundland e-mail system. The Applicant also expressed some concern about whether the enhanced search functions on the Newfoundland server worked the same way as previously or whether the keyword search criteria would now have to be adjusted.

[13] The Applicant requested that the e-mails of one of the CNA-Q-based individuals remain on the list, and indicated a separate request would be filed for the records of the other two. However, the Applicant wished to add a sixth person to the list, being the administrative assistant of the above-mentioned CNA-Q-based individual. In addition, the Applicant noted that portfolios (which,

broadly speaking, are a teacher's course files, containing such things as a course description, lesson plan, teaching and assessment materials and samples of student work) and much of the other material reviewed by CIPS during site visits would be paper records, and it was the Applicant's understanding that, as such, they would not have been covered by the PB/19/2006 search.

[14] On May 7, 2007, the final day of the extended time period for responding to the request, the College wrote to the Applicant enclosing a number of records referencing the Applicant that had been sent to CIPS, in response to the first part of the Applicant's request. The College stated that some information in those records had been severed in accordance with section 30 of the *ATIPPA* (personal information). In response to the second part of the request, CNA stated that attachments to e-mails of the individuals who had been involved in the PB/19/2006 request were searched, but only attachments, as the e-mails themselves had been searched using the same criteria in the previous search. It stated that no responsive records had been found in the search of the e-mail attachments. The College stated that the records of the Accreditation Coordinator had been searched and any responsive records found were enclosed, subject to appropriate severing.

[15] The College noted that IT staff assured them that the keyword search agreed upon would produce the required results. However, the College declined to add further individuals to the list, stating that the Applicant could have further searches completed by making a separate request.

The Review Process

[16] On June 12, 2007 our Office received the Applicant's Request for Review, requesting that this Office review a decision, act or failure to act by the head of the public body, and that this Office bring to the attention of the public body a failure to fulfill the duty to assist the Applicant. Attached to the Request for Review was a three-page letter, with eight separate concerns or complaints. Those concerns, which will be discussed in more detail below, may be summarized as follows:

- CNA had restricted its search to "formal" submissions to CIPS; further, there was no indication that a search was conducted of paper records reviewed by CIPS;
- there was no indication that portfolios sent to or reviewed by CIPS were searched;

- it was not clear what CNA meant by saying, in its correspondence of April 16, 2007, that it “would include only attachments in the scope of the search”;
- it was not clear whose e-mail attachments were searched;
- it was not clear what part of the request was covered by CNA’s assertion that the PB/19/2006 search would not be repeated;
- it should not be necessary to make a new request for records of additional individuals; CIPS had indicated that they had received personal information of hers in relation to the accreditation process; and
- it was not clear why CNA, on April 16, 2007, cited CNA-Q’s inability to perform full-text indexing, but did not respond to the Applicant’s April 23, 2007 question about whether CNA was able to search attachments.

[17] Our Office sent CNA our customary letter forwarding the Applicant’s Request for Review and asking the College to respond. On June 29, 2007 we received a written response from the College, enclosing copies of the records sent to the Applicant, the correspondence relating to this request, and an explanatory letter setting out in some detail the response of the College to the concerns raised by the Applicant in the attachment to her Request for Review. Those responses will be summarized along with the concerns of the Applicant, in the discussion section of this Report.

[18] The heavy workload experienced by this Office at that time meant that there was a backlog of files and there were considerable delays, and so this file was not assigned to active investigation until October 9, 2008. While the concerns that had been raised by the Applicant had been addressed in the June 29, 2007 correspondence from CNA to our Office, it turned out that they had not been addressed directly with the Applicant. As a result of discussions with the assigned investigator, and in an effort to achieve an informal resolution of this file, CNA wrote to the Applicant on March 31, 2009 a lengthy letter responding to her enumerated concerns. That response was essentially similar to what had been contained in the earlier letter to this Office.

[19] The Applicant was not, however, satisfied with the response. There ensued a period of several months in which the investigator from our Office communicated back and forth between the College and the Applicant in an effort to get specific questions answered and to resolve concerns. A further letter was sent by CNA to the Applicant on June 18, 2009, providing additional clarification around some of her concerns.

[20] Unfortunately none of these efforts to resolve this Request for Review informally were successful. Accordingly, on December 4, 2009 this file was referred to the formal investigation process in accordance with subsection 46(2) of the *ATIPPA*. Both parties were asked to provide written representations in support of their positions on the issues in dispute.

[21] However, on January 13, 2010, the CNA Access and Privacy Coordinator contacted our Office to explain that a further search for records at CNA-Q had turned up a quantity of paper records, including a number of course portfolios of the Applicant. The deadline for formal submissions was then put on hold while CNA reviewed those documents and endeavoured to determine if they had any relevance to the Applicant's request.

[22] On February 19, 2010, the College provided to the Applicant a number of course portfolios relating to courses that the Applicant had taught. These records had been redacted to remove names and other personal information of students, in accordance with section 30 of the *ATIPPA*. In its cover letter, however, the College once more confirmed that the Applicant's name had been excluded from the CIPS submission as she was no longer teaching courses in the Information Technology faculty at the time of the submission.

[23] Following the provision of the above group of records, the deadline for formal submissions to this Office was re-set at April 23, 2010. Submissions were received from the College on April 23, 2010. The Applicant did not provide written representations. However, the outstanding issues that prevented informal resolution of this Request for Review had all been addressed by the Applicant in her previous correspondence with this Office.

II SUBMISSION OF THE COLLEGE

[24] The College in its submission recounted the events, both prior to and following the Request for Review, to which I have referred in some detail. This included an account of the steps taken at the beginning to clarify the search criteria, the time frame and the limitations on the search. It also included an explanation of the way in which the search was conducted, the solutions that were identified and the consultations held within CNA to find the requested records.

[25] The College reviewed in detail its efforts to fulfill the duty to assist the Applicant, including the three components as set out in Report A-2009-011 from this Office: assisting the Applicant in the early stages of making the request, conducting a reasonable search for the requested records, and responding to the Applicant in an open, accurate and complete manner.

[26] Finally, the College addressed the concerns enumerated by the Applicant in her Request for Review. The College submitted that it had satisfied all of the components of the duty to assist the Applicant, and that its actions throughout were both reasonable and consistent with the spirit and intent of the *ATIPPA*.

IV DISCUSSION

[27] The issues and concerns raised by the Applicant which were not resolved informally during the review process all fall under the general heading of the duty of a public body to assist an applicant in the handling of an access request, under section 9 of the *ATIPPA*:

9. The head of a public body shall make every reasonable effort to assist an applicant in making a request and to respond without delay to an applicant in an open, accurate and complete manner.

[28] The duty to assist has been discussed in a number of Reports from this Office. In Report A-2009-011, which incidentally was also a matter dealing with College of the North Atlantic, I summarized the content of the duty to assist as follows:

The duty to assist, then, may be understood as having three separate components. First, the public body must assist an applicant in the early stages of making a request. Second, it must conduct a reasonable search for the requested records. Third, it must respond to the applicant in an open, accurate and complete manner.

[29] In paragraph 16, above, I have summarized the main concerns raised by the Applicant in the Request for Review. I will discuss each of those issues in turn, setting out my observations and conclusions about how the College dealt with each of the components of the duty to assist.

Issue #1 – Formal Submissions to CIPS, and Paper Records

[30] The Applicant stated that CNA had, in formulating the search criteria, restricted its search to “formal” submissions to CIPS, and further that there was no indication that a search was conducted of the paper records reviewed by CIPS during site visits.

[31] CNA responded that all of the records of the Accreditation Coordinator, including paper records, were reviewed as part of the current search. In addition, in the course of responding to the PB/19/2006 request, all paper records of the Dean of Business and ICT at CNA-Q were searched, not just e-mail records. This, according to CNA, would have included any records that may have been viewed by CIPS during the site visit. CNA also stated that restricting the search to the “formal” submissions made to CIPS was an attempt to make the search criteria reasonable (i.e. neither repetitive nor so broad in scope as to cause unreasonable interference with operations.)

[32] I agree that this was an appropriate way of dealing with the original access request. The original request, as formulated by the Applicant, was unrestricted either by the time period it covered or by the number of individuals whose records were referred to. That obviously would have been very broad. However, as between the Applicant and the College, the College was clearly in a better position to determine just where to look, whose records to search, and the most appropriate time frame for the search. It is instructive that the College first formulated preliminary answers to these questions, through internal consultation, and then consulted with the Applicant in an attempt to further refine the search criteria.

[33] As for restricting the search to the “formal” submission to CIPS, I conclude that this was an appropriate way of confining the search to a reasonable scope. First, the formal submission was ultimately the basis of the CIPS accreditation decision. Secondly, the formal submission was available as a package and was provided to the CNA Access and Privacy Coordinator for direct review. Thirdly, any “preliminary material” that might have been sent to CIPS while the Applicant was still working at CNA-Q or which might have been viewed by CIPS during a site visit stood a reasonable chance of being captured in the search of the paper records and correspondence of the Accreditation Coordinator.

Issue #2 – Search for Portfolios

[34] The Applicant stated that there was no indication that the portfolios sent to or reviewed by CIPS were searched. CNA responded that the portfolios sent to or reviewed by CIPS were searched, but none relating to the Applicant were found.

[35] The College pointed out that by the time documents were submitted to CIPS in December 2005 the Applicant was no longer teaching at CNA-Q. Therefore, according to CNA, the Applicant’s name and information would not have been included in the documentation submitted to CIPS. For example, among the records supplied to CIPS, and provided to this Office by way of illustration, was a “Faculty Profile” created in December 2005, with a table showing the names of instructors in the program, courses taught, educational backgrounds and work history. The Applicant’s name was not on that list.

[36] Initially, the search turned up no portfolios of the Applicant at all, whether provided to CIPS or otherwise. The Applicant’s view was that this demonstrated the inadequacy of the search. It was also somewhat puzzling to both the investigator from this Office and the CNA Access and Privacy Coordinator, and so the Coordinator initiated several repeat search requests in an effort to determine whether any of those portfolios still existed and why they had not been found. Eventually, as recounted in the “Background” section of this Report, several of the Applicant’s portfolios were found. CNA has explained that they were found by an individual who had not previously been asked to participate in the search because he had not been involved in the accreditation process, and that they were found in storage in an area where they would not have been expected to be.

[37] In my view, while this result may say something about the adequacy of some of CNA-Q's document storage practices, it does not reflect on the adequacy of the search overseen by the Access and Privacy Coordinator and carried out by the CNA staff who were reasonably expected to have possession of the responsive records. A "reasonable search" is one that is carried out by people who would reasonably be expected to be familiar with the records in question, and who carry out a methodical search of the locations in which those records would reasonably be expected to be found. CNA's description of its search satisfies me on both counts.

[38] It must be kept in mind that while some of the Applicant's portfolios were eventually located, and provided to the Applicant by CNA, they did not fall into the category of responsive records, as there was no evidence showing that they had ever been provided to or reviewed by CIPS. Indeed, the evidence uncovered during CNA's search was to the contrary.

Issue #3 – Scope of the Search

[39] The Applicant stated that it was not clear what CNA meant by saying, in its correspondence of April 16, 2007, that it "would include only attachments in the scope of the search".

[40] CNA explained that "scope of the search" simply meant what was to be included in the search. In this case, only attachments to a group of e-mails would be included, since the e-mail messages themselves had already been searched in the course of the PB/19/2006 request.

Issue #4 – Whose Attachments Were Searched

[41] The Applicant stated that it was not clear whose e-mail attachments were searched.

[42] CNA confirmed that for those individuals whose mailboxes had already been searched in the PB/19/2006 request, only attachments were searched in the present request. For the Accreditation Coordinator (the one individual who was not included in the PB/19/2006 search) both email messages and any attachments were searched in the present request.

Issue #5 – What Part of the Request Was Repetitive

[43] The Applicant wanted to know what part of the request was covered by CNA's assertion that the PB/19/2006 search would not be repeated.

[44] CNA reiterated its explanation, previously given in its April 16, 2007 letter to the Applicant, that the e-mail records of four of the five key individuals involved in the accreditation process had already been searched for the Applicant's personal information in PB/19/2006, and it was that part of the current search that would not be repeated.

Issue #6 – Additional Individuals

[45] The Applicant did not agree that it should be necessary to make a new request for records of additional individuals.

[46] CNA took the position that the initial request would have required the search of a potentially very large number of records, that it was attempting to narrow the scope of the search to something reasonable, and that it was unreasonable for the Applicant to ask to have the search further expanded to include people who *might* have responsive records, instead of focusing on people who *would* reasonably be expected to have records. The College pointed out that the Applicant was at liberty to make another, separate request for records of other individuals at any time.

[47] I agree with this conclusion. It is, of course, for each Applicant to state what records he or she is requesting, and in this sense it is therefore the access request that determines what the responsive records are. In turn, it is the duty of the public body, under section 9 of the *ATIPPA*, to assist the Applicant in the early stages to clarify the request, and so it was appropriate for CNA to consult with the Applicant on the parameters of the search. However, it was ultimately for CNA, not the Applicant, to decide what a reasonable search would be.

[48] In this case I agree that limiting the scope of this particular search to the records of the five key individuals was not unreasonable. I accept the arguments of the College on this issue: that the clerical assistant to one of the key individuals would be unlikely to have possession of any

responsive records that were not found in the records of the individual already searched; that it was unreasonable of the Applicant in the circumstances to ask to expand the scope of the search; and that in any event the Applicant was at liberty to make a separate request for records of additional persons if she disagreed.

Issue #7 – Records Allegedly Received by CIPS

[49] The Applicant stated that CIPS had indicated to her that they had received some personal information of hers in relation to the accreditation process, while it appeared from the records provided by CNA that her personal information was *not* sent to CIPS. In the Applicant's view, this showed that CNA had manipulated the process and was misleading her in order to deny her access to these records.

[50] The College responded that in no way did it mislead the Applicant. It claimed that it had conducted a reasonable search and had provided the results to the Applicant. It was possible, according to CNA, that some information that had been provided to or viewed by CIPS might no longer exist. Whatever was found, however, was given to the Applicant.

[51] First of all, while the Applicant states that she was told by someone at CIPS that they had received some personal information of hers, there is no further evidence of what that information might have been, in what context it might have been obtained, or what its relevance might have been to the accreditation process. According to the Applicant, CIPS also advised that once the accreditation application was granted, the documentation on which it was based was destroyed. Under those circumstances, it is impossible for this Office to draw any conclusions.

[52] Secondly, it is important to note that the duty imposed on a public body by the *ATIPPA* is to conduct a reasonable search for records in its custody or control containing the information sought by the Applicant. There is no obligation on the College, in this particular case, to prove beyond a reasonable doubt, or even on a balance of probabilities, that the Applicant's information was or was not provided to CIPS. What the College was required to do was to conduct a reasonably framed, reasonably diligent search for records responsive to the request. This the College did. It is

unfortunate that the records it found, and provided to the Applicant, do not appear to support the conclusions that the Applicant may have expected.

[53] It is our experience that the records management processes employed by public bodies are never perfect. There are bound to be shortcomings and inconsistencies. Similarly, the search carried out by even the most diligent of investigators may miss something, and two different searches may produce slightly different results. The standard to be met, however, is not perfection but reasonableness. (See Report A-2009-011) It is hypothetically possible that there were records sent to CIPS that no longer appear in the CNA files. It is even possible that some responsive records may exist that were not found by a reasonable search. There is no evidence whatsoever that CNA manipulated the search process or deliberately misled the Applicant.

Issue #8 – Searching Attachments

[54] The Applicant asked why CNA would, on April 16, 2007, cite CNA-Q's inability to perform full-text indexing, but not respond to the Applicant's April 23, 2007 question about whether CNA-NL was able to search attachments.

[55] CNA responded that on April 16, 2007 it correctly stated that it was not possible to search e-mail attachments on the CNA-Q server. In fact, this remained the situation with the CNA-Q server at all times material to this Request for Review. Subsequent to the April 16, 2007 letter, however, CNA put into operation a new program called "E-mail Extender" on the Newfoundland server. While this did not provide what is called "full-text indexing" it nevertheless did allow for the searching of e-mail attachments by keyword, which had not been possible previously. Moreover, it was now also possible to electronically import e-mail files from the CNA-Q server to the Newfoundland server, where they could be searched using this method.

[56] This was in fact the method that was ultimately used in the present request, to search the e-mail attachments of the four individuals whose e-mails themselves had been searched in PB/19/2006. On April 16, 2007 the College, reasonably in my opinion, refused to conduct a time-consuming manual search of e-mail attachments as part of its response to this request. Once the new system was installed, however, the Access and Privacy Coordinator immediately arranged for those e-mail

attachments to be compiled and sent electronically to the Newfoundland server, where the necessary keyword search was completed. CNA pointed out that this was explained to the Applicant in its May 7, 2007 correspondence enclosing the responsive records to the Applicant.

Other Issues

[57] A further series of questions were raised by the Applicant after the portfolios referred to above were found. She asked: who conducted the search in 2007? Why were they not found then? Who conducted the search in 2009? Where were the documents found in 2010, and who found them?

[58] It is necessary to point out another aspect of the distinction between a right of access to information generally, and the right of access to records, which is what the *ATIPPA* provides. There will be occasions where additional information, not contained in a record, may be reasonably necessary to explain a record to an applicant, and in such a case it ought to be provided. Similarly, it may sometimes be necessary to provide information to an applicant about the way in which a search is carried out, in order to provide assurance that it was conducted competently and thoroughly. In addition, in circumstances where a record is refused, or information is severed from it, it is the responsibility of the public body to be prepared to adequately explain the refusal or severing to the applicant.

[59] On other occasions, however, once adequate explanations have been provided by a public body, additional follow-up questions can simply lead to a never-ending discussion or debate which is not contemplated by the scheme of the *ATIPPA* and which can unreasonably interfere with the operations of the public body. In the present case, the College has explained the circumstances under which the portfolios were eventually found. In my view that explanation was both reasonable and adequate.

V CONCLUSION

[60] I have concluded that the College fulfilled its responsibilities under the first component of the duty to assist, which is to assist the Applicant in the early stages of making her request. It consulted with the Applicant in formulating the parameters of the request, the time frame to be covered by the

search, and the persons and locations whose records would be searched. It was reasonable in its efforts to devise a search that would likely result in the records sought by the Applicant, while limiting it to what could be carried out without unreasonable interference with the College's operations.

[61] Second, I have concluded that the College conducted a diligent search for the requested records. The appropriate people and locations were chosen for the search. It was reasonable to refuse to repeat the search of e-mails that had previously been searched using the same criteria. The College conducted a complete search of paper records, e-mails and e-mail attachments of the Accreditation Coordinator, who was the most logical person to possess the requested records. In addition, when it became technically possible, during the course of processing this request, to search e-mail attachments of individuals whose e-mails had been previously searched, the College immediately did so. Finally the College asked repeatedly for additional searches for missing portfolios, until it was finally able to satisfactorily answer the question why they were not found initially. All of these things fulfilled its obligations under the second component of the duty to assist.

[62] Finally, the College addressed all of the reasonable issues and concerns raised by the Applicant during the early stages of the access request, in her Request for Review and during the review process. It provided all of the additional information requested about the way in which the search was carried out, and did so without undue delay. In my view it responded to the Applicant throughout the process in an open, accurate and complete manner. In doing so it satisfied the third component of the duty to assist the Applicant.

VI RECOMMENDATIONS

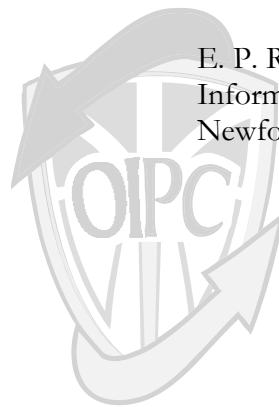
[63] In view of the fact that I have concluded that the College of the North Atlantic has fulfilled all components of the duty to assist the Applicant in responding to her access request, I have no recommendations to make arising out of this Review.

[64] Although I have made no recommendations, under the authority of section 50 of the *ATIPPA* I direct the head of the College of the North Atlantic to write to this Office and to the Applicant,

within 15 days after receiving this Report, to indicate the final decision of the College with respect to this Report.

[65] In addition, I hereby notify the Applicant, in accordance with section 49(2) of the *ATIPPA*, that she has a right to appeal the decision of the College to the Supreme Court of Newfoundland and Labrador, Trial Division in accordance with section 60. The Applicant must file any appeal within 30 days after receiving a decision of the College under paragraph 64 of this Report, above.

[66] Dated at St. John's, in the Province of Newfoundland and Labrador, this 31st day of March 2011.



E. P. Ring
Information and Privacy Commissioner
Newfoundland and Labrador