

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-59

December 8, 2016

UNIVERSITY OF CALGARY

Case File Numbers 004107 and 004108

Office URL: www.oipc.ab.ca

Summary: An Applicant made two access requests dated June 9, 2016, to the University of Calgary (Public Body). The Public Body acknowledged the requests on June 13, 2016 but has not yet provided a response as required by the Act.

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator ordered the Public Body to respond to the Applicant’s access requests as required by the Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72.

I. BACKGROUND

[para 1] An Applicant made several access requests to the University of Calgary (the Public Body), which the Public Body acknowledged in one letter dated June 13, 2016. The Applicant has received responses on all but two of those requests; the remaining two requests are the subject of this Order.

[para 2] Both of the remaining two requests are dated June 9, 2016. One request is for records relating to “any communications between anyone representing Pure North S’Energy Foundation, and [a named individual] or anyone at the School of Public

Policy.” The other request is for records related to “all funding and/or research agreements between Pure North S’Energy Foundation, or any representative of Pure North, and the School of Public Policy.”

[para 3] The Applicant emailed the Public Body on October 18, 2016, to request an update on the processing of these requests. The Public Body responded on the same date, stating:

Sorry to keep you waiting — I have no excuse except the volume of requests on my desk. I will have them all ready for release by December 14 (perhaps earlier but I don’t want to make promises I can’t necessarily keep.)

[para 4] On October 19, 2016, the Applicant requested a review of the time taken by the Public Body to respond.

II. RECORDS AT ISSUE

[para 5] As the issue in this inquiry relates to the timeliness of the Public Body’s response, there are no records at issue.

III. ISSUE

[para 6] The Notice of Inquiry, dated November 2, 2016, states the issue for this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 7] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 8] In its submission to the inquiry, the Public Body acknowledges that it has not complied with its duty under section 11 of the Act. It states:

The University regrets its lateness, however the volume and complexity of requests has strained our ability to respond in a timely manner. This is not an excuse, simply an explanation.

[para 9] The Public Body further states:

The University has located approximately 500 pages of responsive records. The University is consulting with 2 non-profit private foundations, 2 individuals, and 5 public bodies. To expedite processing of the requests, and with the agreement of this Applicant, the University' has combined these two requests into one. Once the consultations have concluded, the University will be in a position to release the records to the Applicant.

The University recognizes the seriousness of this matter and is in the process of recruiting an additional FOIP Advisor to ensure that all access requests are responded to within legislated time frames.

To conclude, the University is actively processing these requests, and will be in a position to respond to the Applicant when the required consultations are complete.

[para 10] I understand that the Public Body is experiencing difficulties dealing with the volume of requests it receives, and appreciate that it is taking steps to address those issues. Nevertheless, the time limit for responding to an access request set out in section 11 of the Act is mandatory; in this case, the Public Body admits that it did not comply with section 11 of the FOIP Act. Therefore, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act, with respect to the Applicant's two remaining access requests referenced above.

V. ORDER

[para 11] I make this Order under section 72 of the Act.

[para 12] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 13] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Amanda Swanek
Adjudicator