ALBERTA
INFORMATION AND PRIVACY COMMISSIONER

REQUEST TO DISREGARD F2025-RTD-01

March 17, 2025

ST. ALBERT PUBLIC SCHOOL DISTRICT NO. 5565

Case File Number 013603

[1] St. Albert Public School District No. 5565 (the "Public Body") requested authorization under section 55(1) of the *Freedom of Information and Protection of Privacy Act* ("the FOIP Act") to disregard five access requests from an individual whom I will refer to as the Applicant. To avoid disclosing the Applicant's identity through gender, while the Applicant is singular, the Applicant is referred throughout as they/them/their.

[2] For the reasons outlined in this decision, I have decided to grant the Public Body authorization to disregard the Applicant's access requests.

Commissioner's Authority

[3] Section 55(1) of the FOIP Act gives me the power to authorize a public body to disregard certain requests. Section 55(1) states:

> 55(1) If the head of a public body asks, the Commissioner may authorize the public body to disregard one or more requests under section 7(1) or 36(1) if
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> (a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests, or
>
> (b) one or more of the requests are frivolous or vexatious.

[4] The right of access to information under the FOIP Act is not absolute. Where a public body establishes that the conditions of section 55(1)(a) or (b) are met, I may authorize a public body to disregard that request.

Background

[5] At the time of the access requests, the Applicant was an employee of the Public Body. The Applicant and Public Body were involved in a dispute involving various allegations of breaches of policy and legislation. Over a period of approximately four months, beginning in the summer of 2019, the Public Body received 16 access requests from the Applicant. The Public Body provided responses to 11 access requests before seeking authorization to disregard the latest 5 access requests under section 55(1) of the FOIP Act. Both parties provided copies of the access requests made by the Applicant.

[6] The Public Body requested authorization to disregard "one FOIP request received from [the Applicant] dated September 6, 2019, and [the Applicant's] further requests received since that date". The Applicant argued that the Public Body's request was unclear because they had submitted six requests on September 6, 2019. The Applicant said they received responses to all of their September 6, 2019 requests other than the request they had characterized as "FOIP-Request #8 (appendix # DP-E9)".

[7] I have reviewed the submissions of the parties including the access requests. Based upon my review of the evidence before me, I understand the Public Body seeks authorization to disregard the five access requests included as an Appendix to this decision. The Appendix (which is not published in the public version of this decision) also includes the 11 access requests to which the Public Body states it has provided responses and for ease of reference, these are listed as A – K.

[8] The access requests at issue are broadly summarized below, and for ease of reference, they are referred to as #1 - #5.

> #1 Access Request dated September 6, 2019
> Any record relating to the Applicant and a number of named individuals between the date range September 24, 2018 – September 6, 2019.
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> #2 Access Request dated October 14, 2019
> Any and all records relating to a particular meeting regarding the Applicant on August 29, 2018. The date range of the request is August 29, 2018.
>
> #3 Access Request dated October 30, 2019
> Any and all records related to a meeting regarding the Applicant on March 21, 2018. The date range of the request is March 18, 2018 – March 22, 2018.

#4 Access Request dated October 30, 2019
Any and all records relating to a meeting about the Applicant that was referred to at the bottom of page 35 in records they previously received from an access request sent June 21, 2018. The date range of the request is January 2015 – January 2017.

#5 Access Request dated October 30, 2019
Any and all records relating to the Applicant and a school activity "produced, sent, received and/or stored by" an individual. "Specifically, but not limited to" a number of other individuals. The date range of the request is the years of 2005-2019.

[9] In late 2019 and early 2020 the parties provided submissions, and on February 18, 2020, my office confirmed that submissions were closed. However, while this application by the Public Body was pending before former Commissioner Clayton, there were other active matters before this office relating to the Public Body's responses to other access requests the Applicant had made. In a letter dated February 26, 2021, the Public Body provided notice that the Applicant and the Public Body had entered into a settlement agreement including the following term:

> 5. Settlement and Withdrawal of Complaints Applications and Requests
>
> 5.1 The [Applicant] agrees that this Agreement fully and finally resolves all actions, complaints, applications, and requests which [Applicant] has made against the Board before the courts and before any and every statutory body, including, but not limited to:
>
> […]
>
> 5.1.2 Any and all requests for information, complaints and applications made by the [Applicant] under the *Freedom of Information and Protection of Privacy Act,* RSA, c. F-25; and

[10] As such, given the settlement agreement, the Public Body asked the OIPC to close this file, as well as others relating to the Applicant, or to consider its application to disregard the five access requests along with the other matters to avoid unnecessary duplication and expense.

[11] In a letter dated August 31, 2021, the former Commissioner responded, notifying the parties that this application would be put in abeyance pending the decision in another file relating to the Applicant, file 015838. On March 19, 2024, that file (015838) resulted in Order F2024-11. At paragraph 71, for the reasons outlined in that order, the Adjudicator found that the provisions in the settlement agreement that required the Applicant to withdraw, rescind and discontinue any and all requests for information, complaints and

applications made by the Applicant under the FOIP Act, to be contrary to public policy and void. In Order F2024-11, the Adjudicator stated the remainder of that inquiry would continue; however, as the settlement agreement issue had been decided, this file (013603) was taken out of abeyance.

[12] The Public Body subsequently confirmed that it wished to continue this application for authorization to disregard the Applicant's access requests. On October 17, 2024, my office contacted the Applicant to inform them that this file had been taken out of abeyance and requested confirmation by October 25, 2024 as to whether the Applicant still wanted to access the information that was the subject of this application. The Applicant did not respond. On November 18, 2024, I sent a follow-up letter to the Applicant. I noted that my office had not had any response from them and that this indicated they no longer sought access to the information they had requested in 2019. I stated that if I did not hear from the Applicant by November 25, 2024, I would issue my decision. On November 25, 2024, the Applicant responded, confirming that they still wanted responses to previous requests made to the Public Body.

[13] As the parties had confirmed they wanted this application under section 55(1) to proceed, and as former Commissioner Clayton had indicated that the Public Body may have additional arguments to make, on December 19, 2024, the parties were given a final opportunity to provide any additional submissions. No further submissions were provided, and on January 13, 2025, submissions in this matter were closed.

Burden of Proof

[14] The FOIP Act is silent on the burden of proof associated with a request to disregard an access request under section 55(1). In prior decisions, I have held that:[1]

> The proposition that "he who asserts must prove" applies across all areas of law, unless there is a specific reverse onus: for example, see Garry v Canada, 2007 ABCA 234, para 8; and Rudichuk v Genesis Land Development Corp, 2017 ABQB 285, para 27. The proponent of a motion needs evidence.
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> As the moving party requesting my authorization, the onus is on the Public Body to prove, with evidence, the requirements of section 55(1)(a) or (b), on a balance of probabilities. As I stated in the MacEwan University Decision under section 55(1) Decision (September 7, 2018), "I cannot make arguments for any party before my office.

[1] Citing former Commissioner Clayton, F2019-RTD-01 (Alberta Justice and Solicitor General, February 1, 2019); 2019 CanLII 145132 (AB OIPC), at pp. 7 and 8.

> I must make a decision based on the arguments and evidence the parties put before me".
>
> Under section 55(1)(a), I am permitted to authorize the Public Body to disregard one or more of the Applicant's requests if they are repetitious or systematic in nature, and would unreasonably interfere with the operations of the Public Body or amount to an abuse of the right to make those requests. Under section 55(1)(b), I may authorize the Public Body to disregard one or more of the requests if they are frivolous or vexatious.
>
> Because section 55 provides that I "may" give authorization, if the Public Body meets its burden I must then decide whether to exercise my discretion to authorize the Public Body to disregard the requests.
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> Applying this reasoning to section 55, if a public body meets its burden, I will then go on to consider whether there is any compelling reason not to grant my authorization to disregard a request.

[15] Therefore, it is up to the Public Body to establish, on a balance of probabilities, that the thresholds in section 55 (1)(a) or (b) are met in this case and on doing so I must exercise my discretion about whether to authorize the Public Body to disregard the access request.

[16] This Office's 2011-2012 Annual Report reported an oral decision of the Court of Queen's Bench, a judicial review of a section 55(1) decision issued under the FOIP Act.[2] In quashing that section 55(1) decision of former Commissioner Work, the Court expressed its view that an application to disregard an access request amounts to a summary dismissal (or disposition) application. Given the similarity of a request for authorization to disregard an access request and a summary disposition application, Alberta's case law provides some guidance as to the evidentiary requirements of a public body in a section 55(1) matter. The law in Alberta is clear that parties to a summary disposition application must 'put their best foot forward'.[3] However, in the *Bonsma* decision, the Court further expressed its view that a person defending what amounted to a summary dismissal under the FOIP Act need do no more than show merit. In other words, that person did not have a burden to show that the request was for a legitimate purpose.

[17] My office has interpreted this decision as meaning that an applicant is not obligated to make a submission in response to a public body's request for authorization to disregard their access request. I agree with this approach.

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[2] *Clarence J Bonsma v The Office of the Information and Privacy Commissioner and Alberta Employment and Immigration Information and Privacy Office*, an oral decision of Clackson J. in Court File No. 1103-05598.
[3] See, for example, *Weir-Jones Technical Services Incorporated v Purolator Courier Ltd.,* 2019 ABCA 49 at para 37; *Alberta Energy v Alberta (Information and Privacy Commissioner*), 2024, ABKB 198 at para 21 (appeal pending on other grounds).

[18] Although a public body has the burden of proof, the British Columbia Information and Privacy Commissioner has previously observed (with respect to British Columbia's equivalent provision), "if a public body establishes a *prima facie* case that a request is frivolous or vexatious, the respondent bears some practical onus, at least, to explain why the request is not frivolous or vexatious."[4] As such, if an applicant chooses to provide a submission in response to an application to disregard an access request, that submission may be considered along with that made by a public body.

Purpose of Section 55(1)

[19] Section 2 sets out the purposes of the FOIP Act*,* which includes allowing any person a right of access to the records in the custody or under the control of a public body, subject to the limited and specific exceptions set out in the FOIP Act.

[20] In this office's first published decision under section 55(1) of the FOIP Act, former Commissioner Frank Work made the following observations on the purpose of this provision.

> The FOIP Act was intended to foster open and transparent government (Order 96-002 [pg. 16]). Section 2(a) and section 6(1) of the FOIP Act grants individuals a right of access to records in the custody or under the control of a public body. The ability to gain access to information can be a means of subjecting public bodies to public scrutiny.
>
> However, the right to access information is not absolute. The Legislature recognizes there will be circumstances where information may be legitimately withheld by public bodies and therefore incorporated specific exceptions to disclosure to the FOIP Act. Section 2(a) of the FOIP Act states the right of access is subject to "*limited and specific exceptions*" as set out in the FOIP Act. Section 6(2) of the FOIP Act states that the right of access "*does not extend to information excepted from disclosure"* under the FOIP Act.
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> In my view, the Legislature also recognizes that there will be certain individuals who may use the access provisions of the FOIP Act in a way that is contrary to the principles and objects of the FOIP Act. In Order 110-1996, the British Columbia Information and Privacy Commissioner wrote:
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> *"…The Act must not become a weapon for disgruntled individuals to use against a public body for reasons that have nothing to do with the Act…"*
>
> Section 55 of the FOIP Act provides public bodies with a recourse in these types of situations.[5]

[4] Auth (s. 43) (02-02), [2002] BCIPCD No. 57 at para 4.
[5] F2002-RTD-01 (Alberta Municipal Affairs), 2002 CanLII 7872 (AB OIPC), at pp. 3 and 4.

[21] In many of her decisions under section 55(1), former Commissioner Clayton observed that access and privacy rights have been deemed "quasi-constitutional" by the Supreme Court of Canada.[6] However, as she also often noted, that does not mean that an individual's ability to exercise their rights is unlimited, and there is no right to make abusive requests.[7] This observation is consistent with the interpretation of access and privacy legislation in other jurisdictions across Canada. For example, in *Crocker v British Columbia (Information and Privacy Commissioner) et al*,[8] the British Columbia Supreme Court provided the following guidance with regard to how section 43 in British Columbia's *Freedom of Information and Protection of Privacy Act* should be interpreted.[9] This provision contains similar wording to the Alberta FOIP Act. The Court stated:

> Section 43 is an important remedial tool in the Commissioner's armory to curb abuse of the right of access. That section and the rest of the Act are to be construed by examining it in its entire context bearing in mind the purpose of the Legislation. The section is an important part of a comprehensive scheme of access and privacy rights and it should not be interpreted into insignificance. The legislative purposes of public accountability and openness contained in s. 2 of the Act are not a warrant to restrict the meaning of s. 43. The section must be given the "remedial and fair, large and liberal construction and interpretation as best ensures the attainment of its objects", that is required by s. 8 of [BC's] *Interpretation Act…*[10]

[22] BC's former Commissioner, David Loukidelis, added his views on how that provision is to be interpreted. Specifically, he said that "any decision to grant a section 43 authorization must be carefully considered, as relief under that section curtails or eliminates the rights of access to information." Another past commissioner has cautioned that, "[g]ranting section 43 requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation."[11]

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[6] See, for example, F2018-RTD-09 (MacEwan University), 2018 CanLII 15765 (AB OIPC) at pp. 4.

[7] See, for example, F2017-RTD-02 (Calgary Police Service), 2020 CanLII 97987 (AB OIPC) at para 20, referring to Chief Justice McLachlin's comments in *Trial Lawyers Association of British Columbia* at para 47 and F2020-RTD-03 (Alberta Justice and Solicitor General) at para 9.

[8] "*Crocker",* 1997 CanLII 4406 (BCSC).

[9] Section 43(1) of the British Columbia's *FOIP Act* reads: If a public body asks, the commissioner may authorize the public body to disregard one or more requests under section 6 or section 32 that

(a) would unreasonably interfere with the operations of the public body because of the repetitious or systematic nature of the requests; or

(b) are frivolous or vexatious.

[10] *Crocker,* at para 33.

[11] Office of the Auditor General of British Columbia, Order F18-37, 2018 BCIPC 40 (CanLII), at para 11.

[23] I concur with the above decisions. These interpretations, in my view, accord with the purposes of the FOIP Act and the legislative scheme of the access to information provisions therein.

Analysis

Section 55(1)(a) – Requests are repetitious or systematic in nature

[24] The Public Body submitted:

> *Repetitious or Systematic*
>
> Previous decisions of the Commissioner have defined repetitious as a request for the same records or information that have been submitted more than once. Systematic is defined as a pattern of conduct that is regular or deliberate (See: *Request for Authorization to Disregard Access Requests, Grant MacEwan College OIPC File Reference #F3885).* Under section 55(1)(a), a request for information need not be found by the Commissioner to be both repetitious and systematic.
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> If an individual makes essentially the same request more than once, the requests qualify as repetitious. Additionally, Commissioners have concluded that several requests over a period of months are systematic in nature, as the requests constitute a pattern of regular or deliberate conduct (See: *Request for Authorization to Disregard an Access Request, Calgary Police Service, OIPC File Reference #00622* [sic]*).*
>
> Although the specific wording of [the Applicant's] requests may vary, the information in [their] September 6, 2019 request seeks is substantially the same information as prior requests and identifies a pattern of conduct. The recurring requests are for information detailed in nature, as well as restated similar information and interrelated requests that closely resemble each other. Previous decisions have determined a systematic nature of a requests [sic] to include five requests provided in a period of two and one half years (see https://www.oipc.ab.ca/media/65089/section_55_ponoka_2002.pdf) as being systematic. In these circumstances, SPS submits that [the Applicant's] 16 access requests in a period of four months is certainly systematic.

[25] The Applicant disputed the Public Body's characterization of their access requests, providing background information about their dispute with the Public Body and an explanation of the timeline and purposes of their access requests. Portions of the submission discussed concerns including the Public Body's handling of their requests and the responses they had received. The Applicant also attempted to submit what appears to be a thirteenth access request to the Public Body within their submission regarding this section 55 application. This is an inappropriate and invalid means to submit an access request to the Public Body, and I have not considered it further.

[26] I have reviewed the Applicant's entire submission. However, as this file pertains only to the Public Body's request for authorization to disregard certain access requests, and is not a review of the Public Body's responses to those requests, I have considered their submission only as it pertains to the Public Body's request for authorization to disregard their access requests. The Applicant stated, in part:

> Systematic = The term systematic is not supported as a reflection of my actions of trying to provide the District Investigator with all the evidence to support my Complaint. Considering the fact that I have a family [redacted] and I am currently on [leave], I can not afford Legal Counsel like my Employer who has included Counsel in the communication regarding my requests since July 17, 2019. As a result, I rebuke the term systematic/systematically and will provide more accountable words to characterize my requests like inexperienced, sloppy and/or novice because I am confident that If I had Counsel, the process from my perspective would have been far more astute.
>
> Repetitious = I must humbly admit that it appears I did submit one (FOIP #12) FOIP-Request that asked for some but not all duplicated information. But, the majority of FOIP #12 requests more extensive information as a result of my constant review of the large-sum of documentation I received in my initial FOIP-Request. In addition, it is a fact that I am in the midst of my journey of healing [redacted]; hence I am not my normal cerebral self as a result of the psychological harm I have endured trying to coexist in a toxic Workplace Environment reflective of Discrimination and Harassment over the years. Once the affects of my experiences exceeded my ability to effectively function to my normal capacity it became fight or flight (move my Family) and I choose to stand and exercise self-advocacy not only for myself but for my Family [redacted] by speaking truth to power. Unfortunately, according to my observations and experiences this has yielded what appears to be unjustified retaliatory responses geared toward intimidating and/or silencing me. Again, if I had legal representation, I would not have submitted the one FOIP-request asking for a small amount of duplicate personal-information.

[27] Having reviewed the Applicant's submission in its entirety, it is apparent that they viewed the 2019 access requests as a learning experience in attempting to navigate a complex legislative scheme. They stated they were inexperienced in making access requests and acknowledged that one request was at least partially repetitive.

[28] I acknowledge the Applicant's concern regarding the term "systematic", however, "systematic in nature" is the statutory language of the FOIP Act and is part of the test to be met by a public body under section 55(1)(a).

[29] As noted by the Public Body, my office has defined "systematic in nature" as including a pattern of conduct that is regular or deliberate.

[30] It is clear from the evidence provided by the parties that the Applicant's access requests demonstrate a pattern of conduct by them to obtain information from the Public Body

related to harassment complaints made by the Applicant about their colleagues and harassment alleged to have been suffered by them during their employment with the Public Body. The evidence also shows that the Applicant is using information received from records received in response to prior access requests to make additional access requests. These requests are made close together and there are many. The Public Body provided evidence of 16 access requests made by the Applicant within a relatively short period of 4 months. Together, these facts amount to a pattern of conduct that is regular and deliberate. I find the Applicant's access requests are systematic in nature.

[31] I further find that at least two of the access requests are repetitious. For example, Request #2, dated October 14, 2019, requests records related to a meeting on August 29, 2018. However, two of the Applicant's previous access requests (I and J in the Appendix) are also for records related to the August 29, 2018 meeting. It is clear that Request #2 is repetitious.

[32] Request #5, dated October 30, 2019 is for all records related to the Applicant "produced, sent, received, and/or stored" by a named individual from 2005 – 2019. This request, while worded differently, appears to be repetitious with Request H in the Appendix. The main distinction between Request #5, and Request H is the time frame, which in Request H is from August 2012 to September 6, 2019, whereas, Request #5 is for a longer period, from 2005 – 2019.

Section 55(1)(a) – the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests

[33] In addition to establishing that a request is either repetitious or systematic, under section 55(1)(a), a public body must also provide evidence that the requests would unreasonably interfere with the operations of the public body *or* that they amount to an abuse of the right to make those requests. For there to be "abuse" there must be evidence of misuse or improper use of the access to information regime under the FOIP Act.[12]

[34] In some cases, the systematic or repetitious nature of access requests, in and of itself, may be an abuse of the FOIP Act. In this case, the Applicant has made numerous access requests over a short period of time for records all relating to a similar subject. There is repetition in Request #2 with Requests I and J, and the portion of Request #5 that overlaps with Request H (that being the responsive records from August 2012 to September 6, 2019). The Applicant has already requested this information and has received a response from the Public Body. As such, they have exercised their right of

[12] See discussion on p.11 of F2015-RTD-01 regarding the meaning of "abuse" under section 55(1)(a).

access under the FOIP Act; therefore, it is a misuse or an abuse of the FOIP Act to request the same records again. Additionally, where requests are repetitious in nature, a public body is required to expend resources determining what has been previously requested and to what it has previously responded. I will authorize the Public Body to disregard Request #2, and the portion of Request #5 that overlaps with Request H.

[35] Remaining to be analyzed is Requests #1, 3, 4, and the remainder of #5.

[36] The Public Body argues that the Applicant's requests unreasonably interfere with its operations and are an abuse of the right to make requests, stating:

> With respect to unreasonably interfering with the operations of the public body, [the Applicant's] requests are requiring significant resources of the SPS to complete. The resources allocated to the requests are required for the operation of SPS and the teaching of its students. Therefore, [the Applicant's] requests are unreasonably interfering with the operations of SPS, examples of which include:
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> - burdening teaching staff's professional and personal time, already stretched thin, with FOIP requests for more information multiple times in four months. For example, one staff member's response was over six inches of records.
>
> - burdening the leadership staff of a large 1165 student high school with continuous FOIP requests for information. High school leadership staff are taking professional and personal time to search for records, the vast majority of which the applicant already has, instead of dealing with pressing issues of operating a large complex high school; and
>
> - additional pressures on the FOIP Coordinator, who already performs a number of legislated duties in the role of Associate Superintendent of Finance/Secretary Treasurer for the school jurisdiction. The FOIP Coordinator could be performing more value added work for the school jurisdiction and its close to 9000 students instead of continuously dealing with what appears to be ceaseless requests for repetitious information.
>
> While SPS has shown good faith in responding to the majority of these FOIP requests, the continuous nature of these requests and the required record searching, gathering, processing, and redacting is becoming an unreasonable strain on public school resources for a purpose not congruent with the spirit of the FOIP Act.
>
> Further, where a Commissioner concludes that information requests are systematic in nature, the requests amount to an abuse of an individual's access rights under the FOIP Act (See: Request for Authorization to Disregard an Access Request, Energy, OIPC File Reference 007378). It is clear that [the Applicant's] requests are systematic in nature and are attempting to collaterally attack the SPS as a public body. Therefore, [the Applicant's] requests amount to an abuse of [their] right to make such requests.

[37] The Applicant provided a detailed response to the Public Body's submission, including background information about the dispute between the parties and the effects it had on them. The Applicant disputed the Public Body's characterization of their requests and provided a detailed history and explanation of their access requests and interactions with the Public Body.

[38] The Applicant disputed the Public Body's position that their requests were unreasonably interfering with its operations, stating:

> My response to the above quote: I find it overwritten that Counsel is stating that an entire School District that operates on a multimillion dollar budget is being strained on "public school resources" especially when Teachers waste paper daily by delivering curriculums through the archaic form of printing paper; thus the reason why I developed a paperless classroom environment. Also, the only set of FOIP documents I received that was redacted was a small amount of documents that were excessively redacted to protect the names of individuals who were 'covertly' communicating, meeting and unjustifiably lobbying my Employer Representatives to cause me harm.

[39] The Applicant further disputed that the access requests are an abuse of their rights under FOIP, stating:

> Abuse of right = I do not agree with Counsel and my Employer's framing of my ability to provide the District hired investigator with all the evidence to support my Complaint of Discrimination and Harassment filed on [date redacted]. As stated earlier in this document (pages #3 - #6), prior to submitting my initial FOIP-Request I engaged in email correspondence with the District FOIP-Coordinator to gain an understanding of the process because I had no previous experience. This email correspondence stated on May 28, 2019 and continued until June 20, 2019 (almost a month).
>
> I did eventually file an additional complaint to Occupational Health and Safety Act [date redacted] because after my experiences it was clear the District's policies needed to be reviewed and/or updated as I would hate another District Staff-Member to feel unprotected/unsupported prior and/or during the unfortunate event they develop the courage to file a complaint.
>
> QUESTION
>
> Why does the District as a Public Body have an appointed FOIP-Coordinator if/when a FOIP-Request is submitted, the general District Staff is expected to perform their own personal search, selection and surrender of the requested personal-information?
>
> Therefore, I adamantly object to Counsel's depiction that my intent/motive was the following:
>
> - ~~To harass my Employer~~
> - ~~To purposely engage in unreasonable interference~~

- ~~Abuse of right to exercise the FOIP Act~~
- ~~Act as a 'disgruntled' Employee who uses the FOIP Act as a weapon~~
- ~~Misuse the FOIP Act~~
- ~~Collaterally attack my Employer~~
- ~~Misalign the purpose of the FOIP Act~~

Moreover, Counsel continued to spin inaccuracies that are not a reflection of my integrity and actions:

- "burdening teaching staffs professional and personal time, already stretched thin with FOIP requests for more information multiple times in four months. For example, one staff member's response was over six inches of records;"

    - ✓ My intent was not to burden Teachers. During my [redacted] years of being a [Profession Title], I know and understand what it feels like to be burdened. To be honest, I thought that in this day of technological advances, the FOIP-Coordinator had the Technological-Resources to use the word-filters I provided to have one of many IT Technical Analysts extract my personal-information.

    - ✓ I was unaware that the District FOIP-Coordinator was void of the Technological-Resources needed to extract my Personal-Information without relying on the Respondents named in my Complaint to produce my personal-information. This appears to be a conflict of interest and clearly has led to these individuals selecting and forwarding bias information. Also, the District requested extensions and I never question and/or objected.

- burdening the leadership staff of a large 1165 student high school with continuous FOIP requests for information. High school leadership staff are taking professional and personal time to search for records, the vast majority of which the applicant already has, instead of dealing with pressing issues of operating a large complex high school.

    - ✓ My intent was not to burden the Leadership Staff. To be honest, I thought that in this day of technological advances, the FOIP-Coordinator had the Technological-Resources to use the word-filters I provided to have one of many IT Technical Analysts extract my personal-information.

    - ✓ I was unaware that the District FOIP-Coordinator was void of the Technological-Resources needed to extract my Personal-Information without relying on the Respondents named in my Complaint to produce my personal-information. the requested information. [sic] This appears to be a conflict of interest and clearly has led to these individuals selecting and forwarding bias information. Also, the District requested extensions and I never question and/or objected.

- additional pressures on the FOIP Coordinator, who already performs a number of other legislated duties in the role of Associate Superintendent of Finance/Secretary

> Treasurer for the school jurisdiction. The FOIP coordinator could be performing more value added work for the school district and its close to 9000 students instead of continuously dealing with what appears to be ceaseless requests for repetitious information.
>
> - ✓ Again, I only submitted one FOIP-request that reflect a small amount of duplicated requested information and that was FOIP Request #12. The majority of the requested info was new and as a result of discovering more evidence that confirms my experiences. Furthermore, the District requested extensions and I never question and/or objected. In addition, I must state for the record, that I've always acted as a professional towards Worksite and my District Staff. An example of the empathy and professionalism I have always displayed can be confirmed through my communication with my Employer, as well ass [sic] the email I sent on [redacted].

[40] In F2020-RTD-03, a public body argued that a request would unreasonably interfere with its operations. As in this case, the applicant in that decision had expected that a public body need do little more than keyword searches to obtain responsive information. The former Commissioner held

> [22] In my view, the Public Body is more qualified than the Applicant to speak to the impact of processing his request on its operations. Responding to an access request requires more than key word searches as, at a minimum, any resulting records must still be reviewed for responsiveness. Further, given that section 55(1)(a) of FOIP specifically contemplates a circumstance where, because of their repetitious or systematic nature, the request would unreasonably interfere with a public body's operations, a public body is entitled to make submissions on that point.
>
> [23] Although the Public Body provided some general information regarding what would be involved in processing the request and how that would interfere with its operations, it is difficult for me to make a determination, on the basis of the evidence before me, as to whether this would *unreasonably* interfere with its operations. All access requests will interfere with an organization's operations to some extent. I recognize it may be difficult for a public body to provide a precise estimate of the time required to process an access request without processing it but some additional information is needed. For example, an estimate of how long full time staff may be required and, importantly, how that compares to its regular operations and usual access requests would be of assistance.

[41] As in F2020-RTD-03, in this case, the Public Body has asserted that the Applicant's access requests have consumed the Public Body's resources; however, this is the case in responding to any access request. The evidence provided by the Public Body is not sufficient to establish that the requests are unreasonably interfering with its operations.

Consequently, the Public Body has not met its burden of proving this aspect of section 55(1)(a).

[42] The Public Body submitted further comments in its argument that the Applicant's requests were vexatious under section 55(1)(b), but its comments on the timing and content of the access requests are also applicable to a finding of abuse of the Applicant's rights under the FOIP Act:

> The FOIP Act is intended to foster transparency and openness for public bodies. The ability of an applicant to access their records under the control of public [bodies] allows for the availability of public scrutiny. SPS has remained committed to these principles, however there comes a point where, due to the volume and similarity of requests, it becomes evidence that an applicant's requests are no longer aligned with the purpose of the FOIP Act and are intended for unrelated and abusive purposes. SPS submits that [the Applicant's] continued conduct of multiple, systematic, and continued requests under FOIP has reached that threshold.
>
> Not only has [the Applicant] filed an OHS complaint against SPS after [their] leave of absence, but the tone and content of [their] requests have escalated to a collateral attack on SPS. Language within [their] requests include the following:
>
> - toxic false-narratives that has been created and propelled by the Respondents of my Complaint;
> - "unfounded fabrication that I violated District Policy;" and
> - "baseless investigation that I violated District Policy."
>
> [The Applicant's] FOIP requests demonstrate a clear motive against SPS related to SPS's investigation into [the Applicant's] conduct as an employee of SPS and subsequent leave of absence. SPS submits [the Applicant] is improperly using the FOIP process as a means of alleging misconduct on the part of SPS. [The Applicant] is not seeking only personal information, but has asked, within a FOIP request, for SPS to answer the following questions:
>
> - The reason(s) and purpose for evaluation? [redacted]
> - What was the process, criteria and standards to be used?
> - What times was to be applied?
> - What was the possible outcomes of the evaluation, including appeal procedures?
> - Why was I [the Applicant] denied this information prior to the facilitation of the evaluation?
>
> [The Applicant] has also attempted to use the FOIP Act to have [their] SPS email login credentials reinstituted that were locked as a result of [their] leave of absence. Further, as a result of [the Applicant's] near continuous stream of request over the past four months, SPS staff are becoming emotionally fatigued and genuinely concerned for their safety given the language in, and volume of, requests received by SPS. SPS is in a

> position where they are required to respond to the allegations levelled against SPS by [the Applicant]. As a result, some of the individuals involved in the review are also subject to not only SPS' review of [the Applicant's] allegations, but also are required to fulfill [the Applicant's] access requests, on top of meeting their obligations as teachers and staff.
>
> SPS submits that the FOIP Act is not 'a weapon for disgruntled individuals to use against a public body for reasons that have nothing to do with the Act' (*British Columbi*a Order 110-1996). [The Applicant's] repetitive, voluminous, and numerous FOIP requests have been made for purposes other than that intended under the FOIP Act.

[43] The Public Body referred to the F2018-RTD-01 (Energy, OIPC File 007378) in its submission. In that case, the public body had responded to previous access requests, and the Applicant continued to request additional information. The Commissioner held, in F2018-RTD-01 that the systematic nature of access requests, in and of itself, may be an abuse of the FOIP Act, and in that case the Applicant had abused the right of access.

[44] In this case, the Public Body states it responded in good faith to the first 11 of the Applicant's access requests. It was only after the Applicant continued to submit access requests that it sought relief under section 55.

[45] I have reviewed the access requests at issue in this matter. Some of the date ranges are unique and some overlap. The subject matter of the access requests generally relates to the Applicant and other individuals. Some of the named individuals overlap between the requests, and the subject matter of the requests all have a similar theme insofar as they appear to relate to the Applicant's attempt to address complaints related to harassment by the Applicant and against the Applicant.

[46] I have also considered the five access requests at issue in the context of the 11 access requests to which the Public Body has already responded. The evidence of the parties is that all of the 16 access requests were submitted over a 4-month period. Further, as the Public Body has pointed out, the requests are not just for information, but include argumentative language such as referring to the investigation as 'baseless', and referring to 'unfounded' fabrications.

[47] On the evidence before me, as described, I find the systematic nature of the Applicant's Requests, #1, 3, 4 and the remainder of #5 together with the foregoing evidence, and the fact that the purposes for which the Applicant is seeking the information does not align with the purpose of the FOIP Act, amount to abuse of the right to make these Requests to the Public Body under the FOIP Act.

[48] Because I have found that section 55(1)(a) applies, it is not necessary for me to consider whether the Applicant's access requests are also frivolous or vexatious under section 55(1)(b) of the FOIP Act.

Request for Authorization to Disregard Future Access Requests

[49] The Public Body also requested authorization to disregard "any future requests submitted by [the Applicant] for similar information" for a period of "one calendar year". Given the lengthy passage of time and the unusual circumstances of this case (the abeyance of this matter while an Inquiry went forward regarding the Applicant's settlement and withdrawal of matters under the FOIP Act, resulting in Order F2024-11), I find it is no longer necessary for me to decide this issue.

[50] Should the Public Body receive any access requests from the Applicant that it believes meet the criteria of section 55(1), it may, at that time, bring an application to disregard that request.

Decision

[51] After consideration of the relevant circumstances, and for the reasons stated above, the Public Body is authorized under section 55(1)(a) of the FOIP Act to disregard the five access requests that are the subject of this application.

Diane McLeod
Information and Privacy Commissioner