

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

REQUEST TO DISREGARD F2025-RTD-02

May 6, 2025

University of Alberta

Case File Number 036232

- [1] The University of Alberta (the “Public Body”) requested authorization under section 55(1) of the *Freedom of Information and Protection of Privacy Act* (the “FOIP Act”) to disregard 43 current requests (the “Current Requests”) and all future requests of a similar nature made by an applicant (the “Applicant”). The 43 current requests the Public Body seeks to disregard are: 24-ARP-00699, 24-ARP-00700, 24-ARP-00701, 24-ARP-00705, 24-ARP-00707, 24-ARP-00717, 24-ARP-00718, 24-ARP-00729, 24-ARP-00730, 24-ARP-00737, 24-ARP-00743, 24-ARP-00753, 24-COR-00754, 25-ARP-00879, 25-ARP-00880, 25-ARP-00881, 25-ARP-00898 (which consists of 26 separate requests made on March 17, 2025), and 25-ARP-00959. 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 under section 55(1)(a) of the FOIP Act to disregard the 43 Current Requests. The Public Body is also authorized to disregard the Applicant’s future requests for three months from the date of this decision.

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)(a) and (b) state:

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

(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] In a submission dated November 14, 2024, the Public Body applied under section 55(1) to disregard 13 access requests and all future requests of a similar nature made by the Applicant. The Public Body stated that since July 22, 2024 it had received a total of 28 requests from the Applicant, and that 20 of them had been made since October 1, 2024. As of the date of its submission, the Public Body had responded to 9 of the Applicant's requests, and said that the Applicant had requested that my office review 4 of them. I note that between the time of the Public Body's application and this decision, the Applicant had requested additional reviews by my office, and the Public Body said it had received 4 additional requests during the time it had been preparing its application under section 55(1).
- [6] In its submission, the Public Body also requested permission to amend its application to add additional access requests submitted by the Applicant during the time this matter was pending before me. On March 10, 2025, the Applicant made three additional requests (25-ARP-00879, 25-ARP-00880 and 25-ARP-00881), on March 17, 2025, the Applicant made an additional 26 requests, which, while being addressed separately by the Public Body, were given a single file number (25-ARP-00898) for administrative ease of reference, and on April 25, 2025 the Applicant made a further access request, 25-ARP-00959. The Public Body requested and was granted permission to add these additional access requests to its application.
- [7] The Public Body also provided an affidavit in support. The Applicant requested and was given extensions to file their response submission in this matter. It was received on January 27, 2025, along with an affidavit, and a request to provide 5 of the affidavit exhibits *in camera*. In a preliminary decision, on January 29, 2024, I denied the Applicant's request. The Applicant chose to provide copies of the exhibits to the Public Body, other than one (Exhibit 33). As such, I have not considered Exhibit 33 in this matter.
- [8] The Applicant states they are a current student at the Public Body. The Public Body states that there are at least three ongoing matters involving the Applicant and the Public Body: 1) a practicum intervention pursuant to the Public Body's *Practicum Intervention Policy*, 2)

an ongoing student conduct proceeding pursuant to the Public Body's *Student Conduct Policy*, and 3) actions imposed pursuant to the Public Body's "Protocol for Urgent Cases of Disruptive, Threatening or Violent Conduct" set out in the *General Faculties Council Policy Manual*.

- [9] The Applicant disputes the Public Body's characterization of the ongoing matters. The Applicant confirms they are subject to student discipline matters, but provided a letter dated October 10, 2024, at Exhibit 2 of their affidavit from the Dean of Students stating that the "Protocol 91 Conditions" (Protocol 91 being the Protocol for Urgent Cases of Disruptive, Threatening or Violent Conduct) had been lifted. The letter further stated that indefinite interim measures would be imposed on the Applicant including exclusion from all Public Body property and premises, single points of contact for all academic and non-academic matters, and prevention from contacting any member of the Public Body, other than the Applicant's immediate circle of support.
- [10] Having reviewed both parties' affidavits, while I accept the Applicant's point that the Protocol 91 conditions had been lifted at the time of the Public Body's affidavit, it appears likely that the actions imposed by the Dean of Students in lifting the Protocol 91 conditions (those being the indefinite interim measures) were what the Public Body was referring to in its affidavit as ongoing matters. Regardless, the specific characterization of an ongoing proceeding is not determinative of the issue before me. I find that both parties agree that the various discipline matters are ongoing, and that there have been serious ongoing consequences, including those outlined in the October 10, 2024 letter. I accept the Public Body's general characterization in its submission, that "there are a number of ongoing policy-based proceedings and active investigations involving the Applicant at the present time".
- [11] The Applicant alleged there were additional inconsistencies in the Public Body's affidavit, such as an error in the position title of a specific employee. The Public Body stated, at paragraph 16(e) of its affidavit that the employee had moved to a different position within the Public Body. However, the Applicant, at page 3 of their submission, referred to an undated copy of the employee's directory information (at Exhibit 12) to demonstrate that the position had not changed. Given the Applicant's argument in their submission, it is unclear why then, at paragraph 18 of the Applicant's affidavit, they refer to that same employee's "substantially different employment roles at the U of A". It is not the Public Body's, but rather, the Applicant's submissions on this point, that appear inconsistent. Regardless, as with the Protocol 91 issue, that employee's specific role at the Public Body is not determinative of the issue before me.

[12] The Applicant relies on *Nanaimo (City) (Re)* 2021 BCIPC 2 (CanLII) to argue that little to no weight should be given to the Public Body's affidavit. I have reviewed this decision – it is a section 43 decision from British Columbia, which is the rough equivalent of section 55 in Alberta. Affidavit evidence was dealt with as a preliminary matter, as follows (footnotes omitted):

[2] The respondent submits that much of the City's affidavit evidence in this inquiry is "inadmissible argument, opinion, mere belief, speculation hearsay or double hearsay and/or untenable assertions (express or implied) of personal knowledge".

[3] In reply, the City submits that strict rules of evidence do not apply to an inquiry under FIPPA and that it is up to me to determine how much weight to place on the evidence submitted. The City also says the respondent's evidentiary objections apply equally to her own affidavit.

[4] In general, the strict rules of evidence that apply to court proceedings do not apply to administrative proceedings, including this application. For example, hearsay is admissible if it is "logically probative and may be fairly regarded as reliable". Given the flexible approach to evidence in administrative proceedings, I am satisfied that it is not necessary in this case to make preliminary rulings on the admissibility of evidence. I will consider all of the evidence submitted, assess its credibility and reliability and determine what weight it should be given.

[13] I agree with and adopt the reasoning of the British Columbia Office of the Information and Privacy Commissioner in 2021 BCIPC 2 as to the weight to be given to the parties' affidavit evidence before me.

[14] Broadly, the Public Body's affidavit provides information about the Applicant's requests, steps the Public Body has taken in response to them, and the impact the Applicant's requests have had on the Public Body. The Applicant's affidavit, broadly, provides detailed background information about the dispute between the parties and underlying events, the impact on the Applicant, and their concerns with the Public Body's submission and affidavit.

[15] The only issue before me in this file is whether the Public Body has met its burden to establish that the conditions of section 55(1) are met, and if so, whether I will exercise my discretion to authorize the Public Body to disregard some or all of the 43 Current Requests and future requests. I am not reviewing the ongoing proceedings between the parties. I am not reviewing any of the Public Body's previous responses to the Applicant on other requests. Where the Applicant has requested a review by my office of the Public Body's response, those matters will be decided in due course.

Burden of Proof

[16] The FOIP Act is silent on the burden of proof associated with an application to disregard a 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.

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. 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.

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.

[17] 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.

[18] 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

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.

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.

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.

[19] 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.

[20] 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)

[21] 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.

[22] 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

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).

⁴ Auth (s. 43) (02-02), [2002] BCIPCD No. 57 at para 4.

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.

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:

“...*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

[23] 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 As indicated, this provision contains similar wording to the Alberta FOIP Act. The Court stated:

⁵ F2002-RTD-01 (Alberta Municipal Affairs), 2002 CanLII 7872 (AB OIPC), at pp. 3 and 4.

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.

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

[24] 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

[25] 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.

Section 55(1)(a) – Are the access requests repetitious or systematic in nature?

[26] Section 55(1)(a) authorizes me to exercise my discretion to authorize the Public Body to disregard an access request where the Public Body has established, on a balance of probabilities, that “because of their repetitious or systematic nature”, one or more of the access requests “would unreasonably interfere with its operations or amount to an abuse of the right to make those requests”. A request is repetitious when a request for the same records or information is made more than once. “Systematic in nature” includes a pattern of conduct that is regular or deliberate.

[27] The Public Body submits as follows:

While the Applicant’s requests are not identical in working and timeframe, there is significant overlap in the nature and substance of the requests [footnote – paragraph 14 of Public Body’s Affidavit]. For example, in File Nos. 24-ARP-00737, 24-ARP-00670, and 24-ARP-00588, the Applicant requests records regarding allegations that the Applicant

¹⁰ *Crocker*, at para 33.

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

sexually harassed other students. The University has already responded to both 24-ARP-00670 and 24-ARP-00588, and the Applicant has filed a request for the OIPC to review both responses. Overall, the Applicant is submitting repeated requests targeting the same or substantially the same information.

More generally, the underlying records sought by the Applicant relate to the ongoing proceedings between [them] and the University noted above; these requests vary in relation to their specific wording, but they are all directed at the same body of records which the University has already considered and provided its response on multiple occasions.

[28] The Applicant appeared to dispute the repetitiousness of some requests and pointed to various communications with the Public Body that sought to clarify the scope of requests, or invited the Applicant to resubmit certain requests in a different way. The Applicant states (at paragraph 18 of their Affidavit) that 24-ARP-00673 relates to the records created by a specified employee in substantially different employment roles. I have reviewed the parties' evidence, and I agree some requests are repetitious. For example, as the Public Body states at paragraph 14 of its affidavit, 24-ARP-00737 is repetitive of 24-ARP-00670, 24-ARP-00588, 24-ARP-00598, 24-ARP-00647 and 24-ARP-00648, and 24-ARP-00730 is repetitive of 24-ARP-00673.

[29] The Public Body further argued that all of the requests were systematic:

The Applicant has submitted 29 [sic] requests in approximately 3.5 months. As noted, the requests generally pertain to three ongoing proceedings between the Applicant and University. As in *Crowsnest Pass* [2021 CanLII 107792 at para 19] and *Energy* [2018 CanLII 152756 at para 52], the short timeframe and similar nature of the requests support a finding that the Current Requests are systematic.

[30] The Applicant conceded the requests are systematic. I agree. The Public Body has provided evidence of twenty-eight (28) access requests made by the Applicant within a relatively short period of 3.5 months, some of which it responded to and some of which are the subject of this application. In addition, in a one week period after bringing this application and during my consideration of it, the Applicant made a further 29 access requests. Finally, while I was considering whether the Public Body could add these additional access requests to this application, the Applicant made yet another access request on April 25, 2025. In total, the Applicant made 30 additional access requests to the Public Body while this matter was ongoing. As all of the requests generally relate to the same ongoing proceedings between the parties, they are clearly a pattern of conduct that is regular or deliberate.

[31] As the Public Body has met its burden under section 55(1)(a) to establish that the access requests are repetitious or systematic, I will now consider the other parts of the test under section 55(1)(a).

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

[32] 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.

[33] The Public Body stated that at the time of its application it had responded to 9 of the Applicant's access requests and that 4 of them were under review by my office. Since that time, I note the Applicant has requested that my office conduct additional reviews. The Public Body submits that the ongoing requests interfered with its operations as follows:

The University will be required to undertake extraordinary and unreasonable steps to provide a response to the Applicant's numerous requests. In her affidavit, [the Affiant] explains that the employees in the Information and Privacy Office are spending approximately 50% of their time in addressing the Applicant's requests. [The Affiant] herself is spending approximately 70% of her time responding to the Applicant. This hinders the Information and Privacy Office from responding to other legitimate requests.

In addition, the Current Requests require a significant number of the University's employees, professors, and administration to undertake multiple different searches for responsive records. For example, the Applicant has requested correspondence from more than 59 individuals in just one request. [See ARP-00730 which is repetitious of 25-ARP-00681]

Further, the Applicant's Current Requests are especially broad with respect to the types of records sought. Seven of the requests [See Table 1 of the Affidavit, specifically File Nos. 24-ARP-00705, 24-ARP-00707, 24-ARP-00718, 24-ARP-00729, 24-ARP-00737, 24-ARP-00743, 24-ARP-00753] pertain to the following:

Any and all records (active, archived, deleted, dormant, severed etc.) of any kind; including, but not limited to: all emails (to and/or from) including any and all attachments of any kind (including any and all drafts), texts (to and from), bbm messages (to and/or from), Google Chat messages (to and/or from), comments of any kind and in any type of format, written correspondence of any kind and in any format, documents of any kind, notes of any kind, files, links and/or attachments of any kind and in any format, phone/video calls (time, date, subject, action, outcome and the like) (to and/or from), summaries

of any kind, reviews of any kind, decisions of any kind, analyses of any kind, opinions of any kind, copies of requests of any kind, minutes of any and all meetings (formal or informal), and anything related to the matter...

Performing such a search would result in an unreasonable number of records to gather, review and process. The Applicant has continued to submit broad requests despite the fact that the University has asked [them] to narrow [their] requests. In her affidavit, [the Affiant] states that it would take the University years to process and complete the request. Given the scope of the University's obligations under the Act and its duties to other individuals making legitimate requests, this is an unreasonable burden for the University.

What constitutes "unreasonable interference" will depend on the situation. Where an applicant requests extensive records for compelling reasons, a heavy administrative burden may be reasonable. However, the University has twice explained to the Applicant that the records [they are] seeking will become available to [them] through the investigatory and administrative processes [they are] already engaged in. See, for example, the University's response to File Nos. 24-ARP-00670 and 24-ARP-00681:

The Applicant is the subject and/or participant in ongoing investigations and proceedings under University of Alberta policies and procedures. Pursuant to these policies and procedures, there are established processes for participants to regularly receive information and records relating to these processes. The Applicant has stated [their] dissatisfaction with these processes however the access provisions under Part 1 of the FOIP Act is in addition to and does not replace established processes for accessing information. The Applicant will get access to information within the timelines of the proceedings [they are] in.

Therefore, it would be unreasonable to require the Office of Information and Privacy to undertake the significant administrative burden placed upon it to satisfy the Applicant's requests, when it is likely that the information [they are] requesting will become available to [them] throughout the University's other administrative processes.

Even if the Commissioner disagrees that the Current Requests will interfere with the University's operations, it is sufficient for the University to establish that the Applicant is abusing [their] right to make the requests.

[34] The Applicant argues the Current Requests do not unreasonably interfere with the Public Body's operations:

The Public Body relies on the Information and Privacy Office's staffing levels to argue Unreasonable Interference. Previous Commissioner Clayton has ruled staffing issues cannot be a reason to disregard requests made under the Act [*Municipality of Crowsnest Pass (Re)*, 2021 CanLII 107792 at para 23; *Town of Ponoka (Re)*, 2015 CanLII 154135 at para 10]. As I depose in paragraph 13 of [my] Affidavit, the Public Body has not notified me it intends to ask for extension under section 14 of the Act for any of the Current Requests.

[The Public Body] argues, “it would take ... years to process and complete the Current Requests. I depose in paragraph 13 of [my] Affidavit, since July 22, 2024, the Public Body collected substantive portion of the responsive records in the Report. Additionally, previous Commissioner Clayton take the view as follows:

There is good reason why the Public Body must meet a high threshold of showing “unreasonable interference”, as opposed to mere disruption. Access and privacy rights have been identified as “quasi-constitutional” by the Supreme Court of Canada. It will usually be the case that a request for information will pose some disruption or inconvenience to a public body; that is not cause to keep information from a citizen exercising his or her democratic and quasi-constitutional rights.

[The Public Body] deposes, “The Applicant has requested records pertaining to more than 60 people...” I specified the 60 Public Body’s professors, employees and students due to my statutory obligation to provide enough detail to the request and I could reasonably name them as I believe they have the responsive records.

[35] In most cases, a public body has more knowledge than an applicant as to how responding to a request will impact its operations. In F2020-RTD-03, the former Commissioner commented as follows:

[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.

[36] The Public Body has not argued that its staffing levels are insufficient; rather it submits that the breadth and complexity of the Applicant’s requests have overwhelmed its staff. The Applicant seeks records used to inform decisions made concerning them and they include numerous quotes as the basis for locating records. In that, the requests are both vague and complex. The Public Body provided sworn evidence that the Applicant’s requests are consuming 50% of the time of the employees in the Information and Privacy Office, and 70% of the Director’s time. I accept the Public Body’s evidence on this point. I cannot see how it is reasonable for a public body to devote that much staff time to a single individual over a period of months. Even without additional information about how

this compares to its regular operations and usual requests, which would have been helpful, it is clear that the Applicant has consumed an unreasonable amount of the Public Body's resources. In addition, the Current Requests will interfere with a large number of Public Body staff, and according to the Public Body's sworn affidavit, would require years to process and complete. I find that responding to the Current Requests would unreasonably interfere with the Public Body's operations.

[37] For the reasons provided below, I also find that the Current Requests are an abuse of the Applicant's right to make requests.

[38] The repetitiousness of a request may be an abuse in and of itself. 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 I find that this is one of those cases. The Applicant has already requested this information, and has received a response from the Public Body. As such, they have exercised their right of 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. As such, the repetitiousness of 24-ARP-00737 and 24-ARP-00730 constitutes an abuse of the Applicant's rights under the FOIP Act.

[39] The Public Body submits that the frequency and similarity of the requests supports a finding that they are abusive. It states:

... the number and frequency of the Applicant's repetitive, lengthy, overbroad and frequent requests are intended to "grind and harass" the University with the effect of influencing the other proceedings within which the Applicant is involved. For example, the Applicant's requests are likely to divert resources from the proceedings and intimidate participants in those processes.

In recent correspondence with the University, the Applicant has taken unreasonable positions regarding computation of time for responding to [their] request. See Exhibits TT and UU where the Applicant insists on a response by December 25, 2024, despite the fact that the Commissioner has already approved an extension request. Such correspondence suggests that the Applicant's intention is to cause frustration and inconvenience rather than legitimately access information.

[40] The Applicant disagrees. However, most of their submission on this point relates to alleged grievances and abuses that the Public Body has done to the Applicant and is not

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

relevant to whether the Current Requests are an abuse of the Applicant's rights under the FOIP Act. The Applicant relies on F2017-RTD-01 (*Regional Municipality of Wood Buffalo*) at paragraph 22, as support for their argument that the existence of other means by which an applicant can obtain records does not preclude an applicant from requesting them under the FOIP Act. I agree with the Applicant on this point; that is, the fact that the Public Body argues that the Applicant can access all of the records they have requested once the ongoing proceedings are complete, does not affect their access rights under the FOIP Act. However, this point is not determinative of the issue of whether the Current Requests are an abuse of their rights.

- [41] Just as the repetitiousness of a request may be an abuse of rights under the FOIP Act, so may the systematic nature of requests be an abuse. This does not mean that all systematic requests are automatically found to be an abuse, but it is a consideration.
- [42] There is an underlying dispute and ongoing proceedings between the parties. As such, it is reasonable that the Applicant may request information related to these proceedings. However, 28 requests in a short time frame of 3.5 months is excessive, those being the total number that the Public Body had responded to prior to bringing this application, as well as the 13 it had initially sought to disregard. The Applicant's additional 29 requests made within one week, while this matter was under consideration, is even more troubling, as is the further request made while I was considering whether to add the additional requests for consideration in this matter.
- [43] I have reviewed the Applicant's requests. Most of the Current Requests are not concise or limited in scope; they are lengthy, broad, and complex. Many of them are multiple pages in length, with numerous sub-parts and involve a large number of named individuals. Later requests made by the Applicant, such as two made on March 10, 2025 (25-ARP-00880 and 25-ARP-00881), relate to records made during the Public Body's review of earlier privacy complaints made by the Applicant. In the unusual circumstances of this case, the Applicant appears to be creating a relentless and unceasing churn of record creation by requesting records related to prior requests or complaints. The 26 requests made by the Applicant on March 17, 2025, as described by the Public Body "pertain to essentially the same subject matter as those that are subject to the pending Application, except that (1) they extend the timeline for responsive records to present date and (2) they exclude records that were responsive to the earlier requests."
- [44] In its later April 1, 2025 submission regarding the Applicant's additional access requests made while this matter was under consideration, the Public Body pointed out that the Applicant:

has more than doubled the number of [their] access requests to the University and has substantially increased the impact upon the University. [The Applicant's] Additional Access Requests do not exist in a vacuum and ought to be considered by the Commissioner as further evidence of the abusive nature of the requests in the University's substantive Application.

- [45] I agree with the Public Body on this point. The Applicant's actions during my consideration of this matter do not assist them in demonstrating that there is any merit to their requests, or that the requests are not an abuse of their rights under the Act. The Applicant has persisted in making additional access requests to the Public Body relating to essentially the same records. They have done this despite knowing that their access requests are being considered under section 55(1) of the FOIP Act.
- [46] The nature of the information requested, the detail associated with each line within the Applicant's requests, the use of many quotes as the basis for locating a record, the relentless making of access requests of a similar nature, and the background information about the underlying dispute and the allegations regarding the Applicant together clarify that the purpose of these requests is not aligned with the purpose of the FOIP Act.
- [47] The continuing pattern of these requests indicates that they are intended to harass and grind the Public Body and are an abuse of the right to access information under the FOIP Act.¹³ Viewed as a whole, these factors lead to the conclusion that the Current Requests are an abuse of the Applicant's rights under the FOIP Act.
- [48] The Public Body has met its burden under section 55(1)(a) of the FOIP Act. As such, it is not necessary for me to consider whether the Current Requests are also frivolous or vexatious under section 55(1)(b) of the FOIP Act.

Request for Authorization to Disregard Future Requests

- [49] The Public Body has requested authorization to disregard future requests of a similar nature made by the Applicant. If such a broad authorization could not be granted, it requested, at a minimum, a cooling off period for one year. The Public Body pointed out that in the time it had taken preparing its application under section 55(1), it had received 4 additional requests from the Applicant, and it anticipated the Applicant's pattern of behaviour was likely to continue. The Public Body was correct on this point as during the

¹³ See F2015-RTD-01 at p 11.

time I was considering this matter, the Applicant made numerous additional access requests.

- [50] The Applicant points out that they have a strong claim to access their personal information. They refer to former Commissioner Work's statement, "An individual's right of access to his or her own personal information is fundamentally related to one's dignity and sense of self and a decision to take away that right from an individual is not one I make lightly" [P2010-RTD-01, *Alberta Motor Association* at para 42].
- [51] I have carefully considered the Public Body's argument for disregarding future requests. While it is persuasive, what I find even more determinative on this issue is the Applicant's own actions while I have been considering this matter. I have decided, to grant authorization, for the Public Body to disregard any access request the Applicant may make for three months from the date of this decision. Further, I recognize there is some delay between the Applicant making requests and the Public Body's counsel notifying me of same. Therefore, for clarity, if the Applicant has made any access requests to the Public Body between April 25, 2025 and the date of this decision, the Public Body may also disregard those access requests.
- [52] I recognize that the Public Body has received many complex and lengthy access requests from the Applicant over a brief period of time. At the same time, I recognize the Applicant is going through several ongoing proceedings and investigations with the Public Body, some of which, undoubtedly may have serious and significant consequences for the Applicant's future. Access to information is a quasi-constitutional right.
- [53] Three months is not the full amount of time requested by the Public Body, but it will provide some relief. Any remedy granted under section 55(1) of the FOIP Act must be proportionate, both to the rights being taken away from an individual, and the harm caused to the public body making the application. In my view, this three-month 'cooling off' period will grant some relief to the Public Body, while still preserving the Applicant's access rights for the future.
- [54] The Applicant may, perhaps, take this decision and the 'cooling off' period as an opportunity to assess the information or responses already received, and determine what, if any, additional information they require from the Public Body. It is also an opportunity for the Applicant to consider my findings herein related to their prior requests and ensure that any future requests are crafted in such a manner to avoid attracting a section 55 finding associated therewith.

Decision

[55] 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 43 Current Requests (24-ARP-00699, 24-ARP-00700, 24-ARP-00701, 24-ARP-00705, 24-ARP-00707, 24-ARP-00717, 24-ARP-00718, 24-ARP-00729, 24-ARP-00730, 24-ARP-00737, 24-ARP-00743, 24-ARP-00753, 24-COR-00754, 25-ARP-00879, 25-ARP-00880, 25-ARP-00881, 25-ARP-00898 and 25-ARP-00959).

Diane McLeod
Information and Privacy Commissioner

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

ADDENDUM to REQUEST TO DISREGARD F2025-RTD-02

May 23, 2025

University of Alberta

Case File Number 036232

- [1] Following the issuance of this decision, Request to Disregard F2025-RTD-02, the parties brought to my attention that I had not specifically addressed the Applicant's access request, 25-ARP-00910. This was an accidental omission.
- [2] 25-ARP-00910 was included as one of the access requests to which the Public Body had requested leave to add to its application in its April 1, 2025 correspondence. In my May 2, 2025 interlocutory decision, the Public Body was granted leave to add the Applicant's additional access requests, including those in its April 1, 2025 correspondence. My intent was to include 25-ARP-00910 in F2025-RTD-02.
- [3] For the reasons provided in Request to Disregard F2025-RTD-02, the Public Body is authorized to disregard access request 25-ARP-00910.

Diane McLeod
Information and Privacy Commissioner