

Date: 20251212
Place: Vancouver

In the Matter of:

**The *Freedom of Information and Protection of Privacy Act*,
R.S.B.C. 1996, c. 165 (the “Act”)**

And in the Matter of:

An Adjudication Under Section 62 of the *Act*

Requested by Alex Aravind on September 5, 2025

Reasons for Decision

of the

Honourable Justice Marzari

Counsel for the Office of the Information
and Privacy Commissioner for BC:

K.R. Phipps

The Requesting Party:

Alex Aravind

Copy of the Record received:

October 17, 2025

Written Submissions of Alex Aravind dated:

November 10, 2025

Written Response Submissions of the Office
of the Information and Privacy
Commissioner for BC dated:

November 24, 2025

Written Reply Submissions of Alex Aravind
dated:

November 28, 2025

Date of Decision:

December 12, 2025

Table of Contents

INTRODUCTION	3
BACKGROUND.....	3
THE SCOPE OF THE ACT.....	5
IS THE RECORD EXEMPT FROM THE SCOPE OF THE ACT?	8
Party Positions	8
Determination	11
CONCLUSION.....	15

INTRODUCTION

[1] Dr. Alex Aravind has applied pursuant to s. 62 of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 [the “Act” or “*FOIPPA*”] for adjudication of a decision of the Office of the Information and Privacy Commissioner for BC (the OIPC) dated July 23, 2025 (the “Decision”). The Decision denied Dr. Aravind access to records in the possession of the OIPC on the basis that the requested records were outside of the scope of the *Act*.

[2] On September 5, 2025, Dr. Aravind sought a review of the Decision, and I was designated as an adjudicator under s. 60(1) of the *Act* to conduct the required adjudication under s. 62 of the *Act*.

[3] The record requested by Dr. Aravind that is the subject of this adjudication is a 2023 application pursuant to s. 43 of the *Act* made by the University of Northern British Columbia (“UNBC”) to the OIPC seeking authorization to disregard certain information requests made by Dr. Aravind (the “Record”).

[4] Pursuant to my directions to the parties, I received a sealed copy of the Record from counsel for the OIPC. The OIPC takes the position that the Record is an operational record of the Commissioner as an officer of the Legislature, and therefore excluded from the scope of the *Act* pursuant to s. 3(3)(f) of the *Act*. The sealed Record has been withheld from Dr. Aravind in its entirety.

[5] As directed, the parties provided written submissions and supporting materials to me. I received initial and reply submissions from Dr. Aravind, who is self-represented, and submissions and an affidavit from counsel for the OIPC. All submissions and materials (other than the sealed Record) were provided to me in writing and copied directly to the other party.

BACKGROUND

[6] According to the materials provided to me by Dr. Aravind, Dr. Aravind was a professor at UNBC beginning in 1999 and was terminated from his employment in early 2022. Immediately upon receiving his letter of termination, he began to request

information from the Board of Governors of UNBC regarding the procedural and substantive aspects of his termination, alleging discrimination, harassment and fraud. For several months before his termination, and certainly since, it is apparent that Dr. Aravind has been in a dispute with UNBC about his termination and his allegations of fraud and other acts of misfeasance that he has advanced against UNBC, its Board, its past president, and other UNBC staff. It is apparent from the materials before me that in 2023, as part of this ongoing dispute, Dr. Aravind continued to request records and information from staff and leadership at UNBC.

[7] On or about July 24, 2023, the OIPC received an application from UNBC seeking authorization to disregard certain requests for information made under the *Act* by Dr. Aravind, pursuant to s. 43 of *FIPIPA*.

[8] The OIPC opened a file for this application and assigned an investigator. On July 24, 2023, both Dr. Aravind and UNBC were then sent a letter advising of this application and the OIPC file number F23-93848. That letter set out the nature of UNBC's application "to disregard certain requests for access to information" submitted to UNBC by Dr. Aravind "because of their systematic and repetitious nature or because the requests are frivolous and vexatious." The investigator's contact information was also provided.

[9] The following day, on July 25, 2023, Dr. Aravind exchanged some emails with the assigned investigator regarding the nature of the application, and the investigator directed UNBC to provide a copy of its s. 43 application to Dr. Aravind directly. Dr. Aravind also provided me with copies of emails in his possession that indicate that the investigator also provided UNBC with information about what more would be required for UNBC to pursue its application, and some orders made under s. 43 of the *Act* considering that provision.

[10] I understand from the materials before me that UNBC did not provide a copy of its application to Dr. Aravind, but instead, on July 26, 2023, formally withdrew its application. This was two days after it made the application.

[11] The OIPC closed its file that same day and notified Dr. Aravind that the application had been withdrawn and the OIPC file closed. No decision was made by the investigator, or anyone else, about whether UNBC was entitled to disregard Dr. Aravind's information requests.

[12] Almost exactly two years later, on July 23, 2025, Dr. Aravind made the request that is the subject of this adjudication. That request was sent to the OIPC by email, and requested a copy of the "complaint submitted by UNBC" that resulted in File F23-93848. In his request, Dr. Aravind asserted that he needed this information "as important evidence of UNBC's continued harassment against me" and the deprivation of his rights and his employment.

[13] Later that same day, Dr. Aravind received the OIPC's Decision, denying his request for the Record. The stated reason for the Decision was that the Record is an operational record of the Commissioner that is excluded from the scope of the access rights under the *Act* pursuant to s. 3(3)(f) of the *Act*. The Decision goes on to say that:

The records that you requested were created by or for the Commissioner and relate to the Commissioner's functions under FIPPA. As operational records they fall within s. 3(3)(f) of FIPPA. As a result, FIPPA does not apply to these records and the OIPC is not required to disclose them to you.

[14] In a follow up email the next day, counsel for the OIPC wrote to Dr. Aravind encouraging him to seek independent legal advice, and providing him with a link to a list of rulings made in relation to these types of adjudications on the scope of the *Act*.

[15] When Dr. Aravind decided to seek review of the July 23, 2025 Decision, I was appointed pursuant to s. 60(1) of the *Act* to review the Commissioner's Decision under s. 62 of the *Act*.

THE SCOPE OF THE ACT

[16] The scheme of the *Act* is helpfully set out in the OIPC's submissions as follows:

4. The Commissioner is an independent officer of the legislature with duties and responsibilities for oversight and enforcement of both BC's private sector privacy legislation, the Personal Information Protection Act, S.B.C. 2003, c. 63 and its public sector access to information and privacy legislation, *FIPPA*.

5. *FIPPA* provides a right of access to records in the custody and control of a public body. It also sets out limited mandatory and discretionary exceptions to disclosure.

6. *FIPPA*'s purposes are twofold, and are set out in s. 2 of the Act. It both makes public bodies more accountable to the public and protects personal privacy by doing all of the following:

- (a) giving the public a right of access to records,
- (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,
- (c) specifying limited exceptions to the right of access,
- (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
- (e) providing for an independent review of decisions made under this Act.

7. Further to *FIPPA*'s purpose of making public bodies more accountable, s. 4 of *FIPPA* creates a right of access to records in the custody and control of public bodies:

4 (1) Subject to subsections (2) and (3), an applicant who makes a request under section 5 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

8. Schedule 1 of the Act defines "public body" as:

- (b) an agency, board, commission, corporation, office or other body designated in, or added by regulation to, Schedule 2...

9. The OIPC is one such public body, per Schedule 2 of *FIPPA*. Persons therefore have a right of access to records held by the OIPC pursuant to s. 4 of the *Act*.

10. However, the public has no right of access to records that are outside the scope of *FIPPA*. Section 3 provides that *FIPPA* applies to all records in the custody or control of a public body, subject to certain enumerated exclusions. Section 3(3)(f) (formerly s. 3(1)(c)) specifically excludes from *FIPPA*'s scope "a record that is created by or for, or is in the custody or under the control of, an officer of the Legislature and that relates to the exercise of functions under an Act." Section 37 of *FIPPA* confirms that the Commissioner is an officer of the Legislature.

[Emphasis added.]

[17] Essentially, s. 4 of the *Act* provides a right of access to records of a public body, of which the OIPC is one, but excludes from its scope any records of an officer of the Legislature “that relates to the exercise of functions under an *Act*.” It has been consistently held in numerous adjudications under the *Act*, that s. 3(3)(f) and its predecessors create a distinction between internal administrative records of the OIPC, which may still be subject to rights of public access under s. 4, and operational records of the OIPC that relate to the OIPC’s statutory functions, which are outside of the scope of the *Act*, and for which there is no legislated public right of access.

[18] The distinction between administrative records and operational records of the OIPC is therefore an important one in this case. This distinction has been considered or described in several adjudication rulings made by members of this Court under s. 62 of the *Act*. It has consistently been held that operational records are those that relate to the Commissioner’s functions under the *Act*, and include records obtained by the Commissioner for the purposes of exercising his or her statutory decision-making authority. Records contained within a case file relating to access to information or privacy rights, whether they be official submissions or applications, or less formal exchanges in relation to a specific investigation under consideration by the OIPC pursuant to the *Act*, have consistently been found to be operational records relating to the Commissioner’s statutory function as an officer of the Legislature.

[19] This distinction was explained by Justice Grauer in *Adjudication (B.F.)*, (30 August 2018) Adjudication Order No. 27 [BF 2018] referring to the identically worded predecessor section to s. 3(3)(f) at paragraphs 24-25 and 27:

[24] A necessary condition for the s. 3(1)(c) exclusion is that the record must relate to the exercise of the officer’s functions under an *Act*. Past adjudication decisions under the *Act* have drawn a distinction between two classes of records that may be in the custody or control of the OIPC: operational records and administrative records. Administrative records are those not relating to the OIPC’s functions under the *Act*, and so are not excluded. The Applicant would be entitled to access to such records. See, for instance, *Adjudication (Doe)*, (06 January 2015) Vancouver, Adjudication Order No. 26, at paras. 39-40 [Doe], and cases cited therein.

[25] Operational records, however, relate to the Commissioner's powers, duties and functions under the *Act*, and, by s. 3(1)(c), these are excluded from the right of access under s. 4: *Doe* at para. 41.

...

[27] Operational records have been held to include any record specific to a case file, such as case management or tracking sheets and lists, notes and working papers (including draft documents) of the Commissioner or his/her staff, or any other case-specific records received or created by the Commissioner's office in the course of opening, processing, investigating, mediating, settling, inquiring into, considering, taking action on, or deciding a case: see, for example, *Doe*, citing *Mr. and Mrs. Y v. Information and Privacy Commissioner*, (05 December 2008) Adjudication Order No. 17 at paras. 20-23; *Adjudication (G.R.)*, (30 June 1997) Adjudication Order No. 3 at paras. 16-19 [G.R.]; *Adjudication (C.M.)*, (5 January 1998) Adjudication Order No. 7 at paras. 14-15; *Adjudication (F.G.B.)*, (17 May 2000) Adjudication Order No. 13 at para. 13.

[20] Adjudicative rulings since 2018 have consistently continued to make this distinction, including *Adjudication (R.M.)*, (17 January 2024) Adjudication Order No. 30 (Mayer J.) [RM 2024]; *Adjudication (S.V.)*, (12 April 2024) Adjudication Order No. 31 (Weatherill J.) [SV 2024], and *Adjudication (D.P.)*, (18 June 2025) Adjudication Order No. 34 (Skolrood C.J.).

IS THE RECORD EXEMPT FROM THE SCOPE OF THE ACT?

[21] The burden of establishing that the Record is outside of the scope of the *Act* pursuant to s. 3(3)(f) is on the OIPC.

Party Positions

[22] The OIPC argues that "There is no question that the requested records are file material and thus operational records." Because Dr. Aravind has requested "the complaint submitted by UNBC, which resulted in File F23-93848", on its face his request is for the contents of an OIPC file. File materials of this type have repeatedly been found to be operational records excluded from the scope of *FIPIPA*.

[23] Dr. Aravind disagrees.

[24] Dr. Aravind provided four pages of initial written submissions attaching 18 pages of further materials, and another five pages of reply submissions. His

submissions are wide-ranging, but I will attempt to summarize the main substantive themes here.

[25] First, he argues that it is unlikely that there was an application sent by UNBC to the OIPC asking for authorization to disregard his requests in 2023 at all. That is, Dr. Aravind questions the very existence of the Record under review that he seeks, and suggests instead that there has been collusion between the OIPC investigator on that file and UNBC to falsely suggest that such an application existed.

[26] If the Record does exist, Dr. Aravind questions whether it is authentic, suggesting that it might be invalid because it lacks key “hallmarks of authenticity” like a signature and date. He argues that the OIPC should be required not only to prove that it is not required to disclose the Record, but also that the Record is a valid document that was submitted by UNBC prior to the opening of the file, as opposed to manufactured at a later date in some sort of cover-up.

[27] Second, Dr. Aravind argues that the OIPC’s position that it is not required to give him the Record makes no sense in light of the file investigator’s direction to UNBC in July 2023 that UNBC provide the application directly to him, before UNBC withdrew its application. He argues that the OIPC’s assertion that his request for that application is outside of the scope of the *Act* is “irreconcilable” with the OIPC investigator’s direction in 2023 that UNBC provide the application directly to him.

[28] Third, Dr. Aravind argues that, in other cases, the Commissioner has exercised its discretion under the *Act* to disclose documents notwithstanding the record being exempt from the scope of the *Act*, and he cites *Adjudication (J.M.)*, (17 January 2025) Adjudication Order No. 32 (Crossin J.) [JM 2025] in this regard.

[29] Fourth, Dr. Aravind argues that, although there have been dozens of adjudications where the record sought was found to be exempt from the scope of the *Act*, none of those were identical to his own situation. He argues that the Record (if it exists) would have initiated the investigation, and therefore was not received *during* the investigation. He argues that “logically and legally, a record that triggers an

action **cannot be** characterized as one received or created in the course of that same action” [emphasis in original].

[30] Dr. Aravind also raises issues of procedural fairness, and his inability to determine the fairness of the OIPC investigation into UNBC’s s. 43 application without seeing the Record. He also argues that he has a right to see if there was any further communications in the file between UNBC and the investigator, beyond the emails he himself has submitted, to ensure that the investigator was impartial (although I note that his request subject to review before me was only for the Record itself). He argues that procedural fairness dictates that he should have been entitled to disclosure of the details of the s. 43 application prior to the opening of the OIPC investigation file at all. He also insists on his right to know the information in the Record so he can “submit a rebuttal to correct the record.”

[31] Finally, Dr. Aravind argues that there is a strong public interest in the disclosure of the Record because it goes to the heart of the OIPC’s mission to keep public bodies accountable. In his reply submissions, Dr. Aravind argues that the public concern relates to “the investigation into fraudulent activities at UNBC impacting the public” and to him personally in resolving his “personal and professional limbo directly caused by these same fraudulent activities.”

[32] Overall, Dr. Aravind’s argument is summed up in his submission that the OIPC’s current position “is a transparent, post-hoc rationalization, inconsistent with its own prior conduct, and advanced only to conceal the flaws in an investigation that never should have been launched.” He concludes as follows:

The OIPC and UNBC engaged in a coordinated, abusive exercise, with the apparent goal of intimidating and harm me and damaging UNBC’s reputation with serious misconducts and cover ups [sic]. The OIPC must not be permitted to shield a document that likely proves the illegality of its own process through tactical evasion and a debatable technical exemption.

[33] I turn then to my determination on this adjudication.

Determination

[34] I have reviewed the Record and I can confirm that it exists, and that there is no reason to doubt its authenticity. The Record consists of an application made by UNBC to the OIPC on July 24, 2023 requesting authorization to disregard certain extant (and potential future) information requests made by Dr. Aravind to UNBC pursuant to s. 43 of the *Act*.

[35] As Dr. Aravind was told in the letter dated July 24, 2023 from the OIPC advising Dr. Aravind of the OIPC’s receipt of this Record, UNBC took the position in that application that Dr. Aravind’s information requests “unreasonably interfere with the operation of [UNBC] because of their systematic and repetitious nature or because the requests are frivolous and vexatious.” That letter went out to Dr. Aravind on the same day the Record was received by the OIPC.

[36] Upon receipt of the Record, I find that a file was opened and was assigned to an investigator. After some communications between UNBC and the OIPC investigator the following day, including UNBC being directed to share a copy of its application with Dr. Aravind and being provided with information about what would be required to advance its application any further, UNBC withdrew its application. Nothing in the Record suggests that it was fabricated, created or submitted with the assistance of the OIPC.

[37] I find that the fact that the investigator directed UNBC to disclose a copy of its application materials to Dr. Aravind on July 25, 2023 is not inconsistent with the OIPC’s Decision. What the investigator directed to be disclosed was UNBC’s own document—UNBC is a public body that is subject to the *Act*. UNBC applied for an authorization from the OIPC, and the OIPC investigator determined that UNBC should share a copy of its application with Dr. Aravind. The investigator did not volunteer a copy of the OIPC’s own Record.

[38] While UNBC’s s. 43 application and the Record in the OIPC file are copies of the same document, the legal status of that document is different in the hands of the OIPC than it is in the hands of UNBC. In the hands of UNBC, while the document

was an active application subject to an anticipated investigation, the OIPC investigator could require UNBC to provide it to Dr. Aravind. However, that does not give Dr. Aravind a right to request case file materials directly from the OIPC under the *Act*.

[39] With respect to Dr. Aravind's argument that the OIPC has the discretion to disclose the Record to him, even though it is exempt under the *Act*, I agree that Justice Crossin's ruling in *JM 2025* provides a past example of the OIPC exercising that sort of discretion. The OIPC's exercise of discretion to disclose the record in that matter rendered the adjudication moot.

[40] Adjudications where the OIPC's discretion to disclose pursuant to s. 47 was truly at issue are of more assistance in this regard. Those cases include Grauer J.'s ruling cited above, *BF 2018*, and *Adjudication (Vancouver Police Department)*, (12 April 2013) Vancouver Adjudication Order No. 23 at paras. 21—22 and 28—29, where Justice Griffin explained why a discretionary decision to disclose or not to disclose records pursuant to s. 47 is not reviewable by an adjudicator under s. 62 of the *Act*:

[21] ... The point which appears to be missed by the VPD is that given that the record is excluded under s. 3(1)(c) of [the *Act*], the VPD has no right to the record, regardless of whether or not the OIPC has discretion to produce it.

[22] Since there is no right of access to the document in question, the decision by the Commissioner not to produce the document does not rise to any error subject to an adjudicator's review under [the *Act*].

...

[29] When in the judgment of the OIPC it is necessary to disclose information to conduct an investigation, audit or inquiry, or to establish the grounds for findings and recommendations contained in a report, then it may disclose such information pursuant to s. 47(2). However, such a decision to disclose or not to disclose the otherwise excluded information is not subject to adjudicative review by an adjudicator, as it is not a decision about a record that anyone has a right to request under the *Act*.

[41] This rationale was cited with approval in *Doe 2015* at paras. 54—58, and *BF 2018* at paras. 35-37, and I find it persuasive.

[42] Overall, I find that I am unable to find any basis to distinguish Dr. Aravind's application for the Record from the many other cases where documents provided or exchanged during the course of an OIPC investigation were found to be operational records exempt from the scope of the *Act*.

[43] From my review of adjudications relating to the scope of the *Act* as set out in s. 3(3)(f), submissions and application materials provided to the OIPC in relation to an exercise of the OIPC's statutory authority under the *Act* have consistently been found on review to be operational records relating to the Commissioner's functions in the course of carrying out his or her statutory duties as an officer of the Legislature, and thus outside of the scope of the *Act*. This was the case even where the records were originally provided by the applicant themselves in relation to an OIPC investigation (SV 2024),

[44] While I was not taken to an adjudication where the document initiating the investigation was specifically the subject of the review, legally I see no difference between such a document and a responsive submission (as was the subject record in *Adjudication (Doe)*, (6 January 2015) Adjudication Order No. 26 (Fitch J.) [Doe 2015]) or a copy of the entire investigatory file: See e.g. *RM 2024; BF 2018*. Regardless of whether it is a document that initiates the opening of an investigation under the *Act*, or one that pertains to another step in the investigation, it is still a document received and held by the Commissioner in their statutory and operational role as an officer of the Legislature.

[45] With respect to Dr. Aravind's concerns about the procedural fairness of the investigation back in 2023, including his need to satisfy himself of the impartiality of the OIPC investigator, I note two things:

- a) The first is that this is not a judicial review. Procedural fairness is an issue properly raised on judicial review where this Court exercises its constitutional authority as a Court of inherent jurisdiction to review administrative action, but generally defers to reasonable decisions of administrative decision-makers. As an adjudicator under s. 62 of the *Act*, my statutory jurisdiction is very

different, and authorizes me to determine whether the Decision was correct with respect to the scope of the *Act*, but not to conduct a review of the procedural fairness of the OIPC’s investigatory process;

b) The second is that, even if this was a judicial review, there is no decision to review. When UNBC withdrew the subject application in July 2023, the entire question of the merits of UNBC’s application was also withdrawn. There is no record for Dr. Aravind to defend or correct, there is no decision to challenge or overturn. The contents of the withdrawn application are now entirely moot.

[46] This brings me to the last of Dr. Aravind’s concerns. He is concerned that, without the Record, he cannot defend himself from the allegations he believes might be contained in the Record. He also lacks ammunition to prove UNBC’s ongoing harassment of him, and UNBC’s greater fraudulent behaviour and misconduct which he says it is in the public interest to disclose.

[47] However, because the application was promptly withdrawn, it provides no such ammunition, and requires no correcting or defending. Even if I were to find that s. 25 of the *Act* applies to records that are outside of the scope of the *Act* (and there is persuasive authority that it does not: See *Adjudication (D.)*, (12 July 2007) Vancouver, Adjudication No. 19 at paras. 10—14 [D.], Bauman J.; *BF2018* para. 11) I am not convinced that Dr. Aravind has shown it to be in the broader public interest that the Record be disclosed to him. He has not established, through evidence as opposed to speculation, any wrongdoing in the handling of the application by the OIPC or by UNBC.

[48] I find that the Record is clearly related to the exercise of the Commissioner’s functions as an officer of the Legislature, and is therefore excluded from disclosure under s. 3(3)(f) of *FIPPA*.

CONCLUSION

[49] In conclusion, I find that the OIPC was correct that the Record is exempt from disclosure under the *Act*, and that Dr. Aravind has no right of access to the Record from the OIPC, or through this adjudication. Nor does Dr. Aravind have the right to compel the OIPC to exercise its discretion to disclose this Record under s. 47.

[50] Pursuant to s. 65(2) of the *Act*, the Commissioner's decision to refuse access to the Record is therefore confirmed.

“The Honourable Justice Marzari”