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Order F16-24

PRIVATE CAREER TRAINING INSTITUTIONS AGENCY

Elizabeth Barker
Senior Adjudicator

May 3, 2016

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Summary: The Private Career Training Institutions Agency (“PCTIA”) sought authorization to disregard certain outstanding and future access requests made by the respondent. The adjudicator found that some of the outstanding requests are frivolous or vexatious under s. 43(b) and PCTIA is authorized to disregard them. PCTIA is also authorized to disregard the respondents’ future access requests, in excess of one open access request at a time, for a period of two years.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 43(a) and (b).

Authorities Considered: B.C.: Decision F11-04, 2011 BCIPC 40; Order F10-09, 2010 BCIPC 14; Decision P05-01, [2005] B.C.I.P.C.D. No. 23; Auth. (s. 43) 02-02, [2002] B.C.I.P.C.D. No. 57; Auth. (s. 43) 02-01, <https://www.oipc.bc.ca/decisions/171>; Auth. (s. 43) 99-01, <https://www.oipc.bc.ca/decisions/170>.

INTRODUCTION

[1] This inquiry is about PCTIA’s request for authorization under s. 43 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) to disregard certain of the respondent’s current and future requests for records. PCTIA submits that the respondent’s requests are frivolous and vexatious and they unreasonably interfere with its operations due to their repetitious and systematic nature.

ISSUES

[2] The issues in this case are as follows:

1. Are the respondent's requests repetitious or systematic, and if so, do they unreasonably interfere with PCTIA's operations under s. 43(a) of FIPPA?
2. Are the respondent's requests frivolous or vexatious under s. 43(b) of FIPPA?
3. If the answer to either question above is "yes", what relief is appropriate?

[3] Previous decisions have established that the applicant public body has the burden of proof under s. 43.¹

DISCUSSION

[4] **Background** – PCTIA is a crown corporation under the Ministry of Advanced Education ("Ministry"), and it regulates private career training institutions in British Columbia. Students who believe they have been misled by such an institution can file a complaint with PCTIA and request a full or partial tuition refund.

[5] Between 2005 and late 2007, the respondent was enrolled in a counsellor training program run by ClearMind International Institute ("ClearMind"). He believed that the coursework he was taking would be eligible for credits towards a Bachelor of Arts in Applied Transpersonal Counselling Psychology and a Master of Arts in Psychology with Rutherford College ("Rutherford"). Both ClearMind and Rutherford were registered and regulated by PCTIA at the time of the respondent's enrolment.²

[6] In July 2014 the respondent complained to PCTIA that ClearMind and Rutherford had misled him into believing that the coursework he was taking would be eligible for credits towards a university degree ("2014 complaint").³ In correspondence dated September 2014 and February 2015, PCTIA declined to accept the respondent's complaint because it was not filed within the requisite time period under PCTIA's bylaws.⁴

¹ See: Auth. (s. 43) 02-02, [2002] B.C.I.P.C.D. No. 57 and Order F10-09, 2010 BCIPC 14 (CanLII).

² PCTIA suspended ClearMind's and Rutherford's registrations in 2007. ClearMind's registration was reinstated in 2008, and Rutherford's was cancelled in August 2007.

³ Applicant's February 19 submission (pp. 4 and 15 of 83 page attachment).

⁴ PCTIA's bylaw 44.7 states that complaints must be filed within six months of the date upon which the event complained of occurred or upon which the complainant should reasonably have been expected to know about the matters in issue (Lawyer's affidavit, exhibit C).

[7] The respondent's requests to PCTIA for records commenced in January 2015. On October 27, 2015, PCTIA applied to the Office of the Information and Privacy Commissioner ("OIPC") for authorization, under s. 43 of FIPPA, to disregard specific outstanding and future requests made by the respondent.

[8] OIPC mediation did not resolve the parties' dispute regarding this s. 43 application, and it proceeded to a written inquiry. Both parties made submissions. During the inquiry, the respondent consented to PCTIA submitting information about their OIPC-conducted mediation, which took place in December 2015 and January 2016.⁵ I will refer to this information as the "mediation materials".

[9] **Applicable Principles** - Section 43 of FIPPA states:

Power to authorize a public body to disregard requests

43 If the head of a public body asks, the commissioner may authorize the public body to disregard requests under section 5 or 29 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] The function and importance of s. 43 were discussed in Auth. (s. 43) 99-01, where former Commissioner Loukidelis said the following about its role in the scheme of access rights created under the FIPPA:

... Access to information legislation confers on individuals such as the respondent a significant statutory right, *i.e.*, the right of access to information (including one's own personal information). All rights come with responsibilities. The right of access should only be used in good faith. It must not be abused. By overburdening a public body, misuse by one person of the right of access can threaten or diminish a legitimate exercise of that same right by others, including as regards their own personal information. Such abuse also harms the public interest, since it unnecessarily adds to public bodies' costs of complying with the Act. Section 43 exists, of course, to guard against abuse of the right of access. ...⁶

[11] Relief under s. 43 is available for access requests made under s. 5 of FIPPA that meet certain criteria. In order to merit relief under s. 43(a), the requests must be repetitious or systematic, and responding to them must unreasonably interfere with the public body's operations. A repetitious request is one that has been made one or more times. A systematic request is

⁵ Lawyer's affidavit, exhibit LL.

⁶ Auth. (s. 43) 99-01, <https://www.oipc.bc.ca/decisions/170>, at p. 7.

characterized by a system, method or plan of acting that is organized and carried out according to a set of rules or principles.⁷

[12] The principles governing the interpretation and application of s. 43(b) are set out in Auth. (s. 43) 02-02.⁸ In that Order, former Commissioner Loukidelis also provided the following non-exhaustive list of factors to consider when determining whether a request is frivolous or vexatious:

- A frivolous or vexatious request is one that is an abuse of the rights conferred under the Act.
- The determination of whether a request is frivolous or vexatious must, in each case, keep in mind the legislative purposes of the Act, and those purposes should not be frustrated by an institution's subjective view of the annoyance quotient of particular requests.
- A "frivolous" request is one that is made primarily for a purpose other than gaining access to information. It will usually not be enough that a request appears on the surface to be for an ulterior purpose – other facts will usually have to exist before one can conclude that the request is made for some purpose other than gaining access to information.
- The class of "frivolous" requests includes those that are trivial or not serious.
- The class of "vexatious" requests includes those made in "bad faith", *i.e.*, for a malicious or oblique motive. Such requests may be made for the purpose of harassing or obstructing the public body.
- The fact that one or more requests are repetitive may, alongside other factors, support a finding that a specific request is frivolous or vexatious.

[13] **The respondent's access requests** – PCTIA states that the respondent made a total of 13 access requests under FIPPA between January and November 2015. It says that number may be even higher because some requests are made up of several separate and distinct access requests. PCTIA has responded to some of the requests, but it seeks authorization to disregard those dated March 18 (two), March 20, April 17, September 30, October 20, November 12 and November 27, 2015 on the basis they are "frivolous and vexatious and have and will continue to unreasonably interfere with its operations due to their repetitious and systematic nature."⁹ It also asks for authorization to disregard some of the respondent's future FIPPA requests.

⁷ Auth. (s.43) 99-01, <https://www.oipc.bc.ca/decisions/170>, at p.3; Auth. (s. 43) 02-01, [2002] B.C.I.P.C.D. No. 57, at para 16; Decision P05-01, [2005] B.C.I.P.C.D. No. 23, para. 11.

⁸ Auth. (s. 43) 02-02, [2002] B.C.I.P.C.D. No. 57.

⁹ PCTIA's initial submissions, para. 56.

[14] In order to fully understand the context for this s. 43 application, it is necessary to consider all of the respondent's access requests, including those which are no longer outstanding. PCTIA's initial submission contained an affidavit sworn by its in-house lawyer who responded to the respondent's requests. She sets out the history of the parties' communication, and she also provides copies of their correspondence. Based on this affidavit evidence and the parties' submissions, I have determined that the respondent made requests for records on the dates listed below.¹⁰

[15] January 4 – In this email, the respondent requested two records. PCTIA provided the requested records, so this is not an outstanding request. However, one of the records plays a central role in the respondent's other requests. It is PCTIA's October 3, 2005 letter ("Concerns Letter") to ClearMind about a document ("Advert") posted on ClearMind's website. The Advert apparently represented that ClearMind's courses are "degree" courses, although it was not authorized to make such representations. The Concerns Letter says that PCTIA would not process ClearMind's "re-registration" until it had rectified this error.

[16] February 11 - This was a seven-part request. PCTIA responded to the first four parts and provided some responsive records, but it informed the respondent that it did not understand the last three parts. It wrote: "You have made various requests to other public bodies in relation to the same matter and may now have obtained the records sought through those channels. However if this is not the case, you may submit a revised request to the Agency that clarifies the records you are seeking."¹¹ The letter informed him of his rights under FIPPA to seek a review of PCTIA's decision by the OIPC, but there was no information that he did so.

[17] March requests - The respondent sent PCTIA multiple emails in March, apparently attempting to clarify the parts of his February 11 request that PCTIA said it did not understand. PCTIA says that it treated three of these emails as three new access requests.¹² I will refer to these three emails as the "March requests". In the March requests, the respondent repeated verbatim the three parts of his February 11 request that PCTIA said it did not understand, and he provided additional explanation about the requests (which he labeled as "rationale", "assumptions" and "evidence"). With some difficulty, I can discern that the respondent wanted records about the registration, accreditation and compliance status of ClearMind and Rutherford, with a focus on what occurred in 2005 around the time the Concerns Letter was sent. PCTIA sent the respondent

¹⁰ All dates are in 2015 and the letter references are to the exhibits in the lawyer's affidavit.

¹¹ Lawyer's affidavit, exhibit I.

¹² Records K and L (dated March 18), and O (dated March 20) in lawyer's affidavit.

a fee estimate for processing the March requests, and that fee matter is currently the subject of an OIPC review (“first fee dispute”¹³).

[18] April 16 – It is evident that this was a request based on what the respondent learned when he received the Concerns Letter in response to his January 4 request. The respondent asked PCTIA for a copy of the Advert, which was mentioned in the Concerns Letter. PCTIA responded that it did not have a copy of the Advert. Although there is no indication that the respondent requested a review of this decision by the OIPC, it is apparent from the subsequent mediation materials that the respondent did not believe this response.

[19] April 17 – In this email, the respondent asked once again for the same records requested in the March requests, namely ClearMind’s registration and compliance records around the time of the Concerns Letter. PCTIA treated this as a new request, however, and issued a fee estimate. The parties are involved in an OIPC review of that fee estimate (“second fee dispute”¹⁴).

[20] May 26 – This email repeated the respondent’s March requests for ClearMind’s registration and compliance records around the time of the Concerns Letter. PCTIA advised the respondent that it would not respond further to this request because it is already part of an OIPC fee dispute review.

[21] September 20 – This was a three-part request. PCTIA informed the respondent that it did not have records responsive to the first two parts, and that the third part was a repeat of his March requests. I agree that the third part of this request was a repeat of the March requests.

[22] September 30 - This was a three-part request. PCTIA responded that it had already provided the responsive record asked for in the first part, that it would charge a fee for the second part, and that it did not understand the third part.¹⁵ In my view, all three parts of this September 30 request repeated the respondent’s March requests for information about ClearMind and Rutherford’s compliance and registration. The parties are involved in an OIPC review of the fee estimate (“third fee dispute”¹⁶) related to the second part of this request.

[23] October 20 – In this email, the respondent requested five specific letters, all relating to Rutherford’s compliance status. In my view, this was another request for the records he asked for in his March requests. There is no

¹³ OIPC file F15-61296.

¹⁴ OIPC file F15-61601.

¹⁵ The request is over 9½ pages, most of which is apparently cut and pasted from another document, which the respondent does not identify.

¹⁶ OIPC file F15-63490.

information that PCTIA responded directly to this request. (I note that the PCTIA made its s. 43 application on October 27).

[24] November 8 – The respondent requested PCTIA provide him a copy of each of his access requests that resulted in a fee dispute and PCTIA's fee estimate letters. There is no information that PCTIA responded to this request.

[25] November 12 – While this request is somewhat unclear, it appears that the respondent requested the same records he asked for in his March requests. There is no information that PCTIA responded to this request.

[26] November 27 - The respondent requested access to all his personal information held by PCTIA. There is no information that PCTIA responded to this request.

[27] **PCTIA's submissions** - PCTIA submits that the purpose of the respondent's requests is to force PCTIA to reconsider its decision regarding his 2014 complaint - not to gain access to information. It also submits that he is using his requests to challenge PCTIA's decision to re-register ClearMind in 2005 and seek an admission of wrongdoing from PCTIA. PCTIA points to several of the respondent's emails, as well as his inquiry submissions, as proof that this is what motivates the requests. PCTIA says that all of the requests "relate directly back to the same records, communications, people and events and, more specifically, the two institutions against which he unsuccessfully attempted to file a complaint in late 2014."¹⁷

[28] PCTIA submits that the respondent is not acting in "a responsible, good faith, and common sense manner".¹⁸ In support, it points to the mediation materials, which reveal that the respondent refuses to accept that there are no records regarding the Concerns Letter and ClearMind's 2005 re-registration other than those already disclosed to him. PCTIA says that the respondent is unwilling to accept the response he has been given, instead choosing to repeatedly ask for something that he has been told does not exist.

[29] Further, PCTIA submits that the respondent's requests are "highly repetitious and sometimes entirely duplicative of earlier requests."¹⁹ PCTIA also says that due to their broad scope, many of the requests, overlap or subsume other requests. PCTIA submits that the requests have "the effect of essentially seeking every document in the custody or under the control of the Agency relating to either Clearmind or Rutherford spanning more than 12 years."²⁰

¹⁷ PCTIA's initial submissions, paras 11-13.

¹⁸ PCTIA's initial submissions, para. 53.

¹⁹ PCTIA's initial submissions, para. 26.

²⁰ PCTIA's initial submissions, para. 27.

[30] PCTIA also submits that the respondent's November 27 request for his own personal information is trivial and is not a good faith request to gain access to information that he does not already have. PCTIA's lawyer says:

The November 27 request is framed as a request for personal information, however the entirety of the Agency's correspondence and dealings with the Respondent can be said to concern the compliance status of Clearmind and Rutherford and therefore much of the information has already been provided or would be subsumed under other requests. There is no connection between the parties, such as a student or employment relationship, that would lead to categories of documents outside the Respondent's communications with us on this same subject matter.²¹

[31] Further, PCTIA submits that the respondent systematically combs through the records produced by way of earlier access requests to identify additional records, which he then requests. PCTIA says that every request since the first one either references or quotes from records previously received from PCTIA or the Ministry. It provides several of the respondent's emails as support for this assertion.²²

[32] PCTIA's lawyer also provides evidence about the impact of responding to the respondent's requests. She says that until he began submitting requests, she was able to fulfil her responsibilities regarding FIPPA access requests without issue or concern for resources. However, the time she spent on processing FIPPA requests in 2015 increased significantly due to the respondent's requests. She says:

His requests are time consuming from the outset as they are difficult to understand, multi-layered, and often lengthy due to what appear to be quoted passages from sources unidentified by the Respondent. Through my own analysis, I have found that many of these quotes come from records provided to the Respondent in response to his earlier freedom of information requests. The quotes, sometimes amounting to multiple printed pages, must nonetheless be read through to determine whether the Respondent has included additional requests in that text. I also review the quotes in an attempt to gain insight into what it is the Respondent may be seeking, as his requests are often unclear, but they are rarely helpful in this regard.

...

The repetitious and overlapping nature of the Respondent's requests is also such that I spend a significant amount of time parsing them and reviewing earlier requests and responses to determine which:

²¹ Lawyer's affidavit, para. 32 (footnote). PCTIA's initial submissions, paras. 28, 46 and 49.

²² PCTIA initial submissions, para. 35. Lawyer's affidavit para. 44. PCTIA's lawyer explains how the Ministry consulted with PCTIA in relation to two of the respondent's requests, and PCTIA provides summaries from the Ministry's response to seven FIPPA requests about Rutherford and ClearMind, which she believes were made by the respondent.

- are requests for records and therefore subject to the Act;
- are duplicative of earlier requests for which records have already been disclosed; are duplicative of earlier requests which are now subject to reviews of fee estimates which the Respondent refused to pay;
- are duplicative of earlier requests in respect of which the Respondent has been advised there are no responsive records; or
- are requests for information and require a response outside the Agency's responsibilities under the Act.

...

The Respondent's more detailed requests often list multiple broad categories of documents. Before beginning to determine which records may be responsive to a request, it is necessary for me to first determine which parts of the request are explanation or opinion and which are in fact requests for records, and then decide where one category ends and the other begins.²³

[33] PCTIA's lawyer explains that the "overly broad and historic nature" of the requests increases the time required to respond.²⁴ She says that she has spent over 75 hours interpreting the respondent's correspondence to determine whether or not it contains requests for records, reviewing records, preparing them for disclosure, and generally providing assistance regarding his requests. She says that other PCTIA employees have also spent time assisting her in interpreting his requests.²⁵ She provides a copy of PCTIA's fee estimate letters for the March, April 17 and September 30 requests (currently the subject of the three fee disputes). In those letters, she calculates PCTIA will need at least 31 hours to process those requests.²⁶ She adds that if he is allowed in the future to submit his requests unabated, the time needed to respond would "increase exponentially" and unreasonably interfere with PCTIA's operations.²⁷

[34] Finally, PCTIA's lawyer provides additional information about the parties' communications and the context for this s. 43 application. She says:

In this same period, the Respondent has also made numerous requests for information (not records) concerning Clearmind and Rutherford to which the Act does not apply, has sought several reconsiderations of the decisions relating to his complaint, and has attempted to make what he terms "new" complaints against Clearmind, though they stem from the same matters originally complained of. Many of these requests are a result of the Respondent following up with questions about the material he sees in records produced in response to earlier requests. This has resulted in the Agency investigating, retrieving, and producing a substantial amount of information

²³ Lawyer's affidavit, paras. 44-47.

²⁴ Lawyer's affidavit, para. 48.

²⁵ Lawyer's affidavit, para. 49.

²⁶ 15, 7 and 9 hours, respectively, as per lawyer's affidavit, exhibit Q, W, EE.

²⁷ Lawyer's affidavit, para. 50.

for the Respondent in relation to this subject matter in addition to any requests for records.

...

It is my belief, based on my regular, ongoing dealings with the Respondent that his requests all stem from his being deeply unhappy with the rejection of his complaint against Clearmind and Rutherford. I have advised the Respondent on numerous occasions that the complaint process has been exhausted and that there is nothing further the Agency can do for him in respect of receiving a tuition refund or otherwise... I have also repeatedly recommended that the Respondent seek independent legal advice which, to my knowledge, he has not done.²⁸

[35] **Respondent's submissions** - The respondent denies that his requests are vexatious or that responding would unreasonably interfere with PCTIA's operations. He describes his requests as "persistent" and says:

...Given that the matter requested has not been comprehensively addressed from the PCTIA to the Public, it is easy to determine and confuse [*sic*] a persistent [*sic*] matter with a vexatious claim. Once again the Burden [*sic*] to the agency can only be determined by how many resources the agency has to respond to an FOI. This shall not diminish the request/right to access information, just because the agency can not properly respond to requests...

Information solicited and requested to the PCTIA was done so in in [*sic*] intent to better understand how the PCTIA made decisions that affected the public regarding two of its registered institutions. Both of these registered institutions mislead the public the PCTIA act and the DAA Act. Given that the initial FOI request is one of many attempts to understand how a public body made decisions that affected the public, this attempts may be perceived as obsessive, pointless or burdensome, when in fact they are the opposite. In order to address if the information sought, lack any serious purpose or value, it is also important to note that in many examples the request will be made in the context of long-running and protracted (and sometime fractious) correspondence and contact between the requester and the authority. As a consequence, the importance of public accountability and transparency shall not be confused with the term vexatious.²⁹

[36] **Analysis and findings** - PCTIA is requesting authorization to disregard the requests which are dated March 18 (two), March 20, April 17, September 30, October 20, November 12 and November 27.³⁰

²⁸ Lawyer's affidavit, para. 9 and 11.

²⁹ Respondent's February 19, 2016 submission, pp. 1.

³⁰ Lawyer's affidavit, exhibits K, L, O, V, DD, GG, II and JJ.

March requests

[37] The March requests are lengthy, convoluted and time-consuming to understand. They are also sweeping and broad in scope. That being said, when viewed as a whole and in context, it is apparent that they are the respondent's attempt to clarify what PCTIA said it did not understand in his February 11 request. There is no evidence that PCTIA considered them to be duplicates or repeats of earlier requests when it received them (and issued a fee estimate). To my mind, the March requests are clarifications of the earlier February 11 request and they are not "new" access requests or duplicates of the February 11 request. Also, the March requests do not reveal any system, method or plan of acting that is organized and carried out according to a set of rules or principles. In addition, there is nothing to suggest that any of the factors set out in Auth. (s. 43) 02-02, that might render a request frivolous or vexatious apply to them. In conclusion, I am not satisfied that the March requests are repetitious or systematic under s. 43(a) or frivolous or vexatious under s. 43(b).

April 17, September 30, October 20 and November 12 requests

[38] I find that the April 17, September 30, October 20 and November 12 requests are repetitious of the March requests (which in turn clarified the February 11 request).³¹ In these later requests the respondent uses slightly different language when describing what he wants. Many of these requests are also lengthy with quotes from various unidentified sources, which make them exceedingly difficult to understand. However, after sorting through the confusion this adds, it is apparent he is asking for the same records he requested in his March requests (or subsets of those records).

[39] Based on the respondent's communications with PCTIA, it is evident that he is dissatisfied with PCTIA's response to his March requests, and that his reaction is to ask repeatedly for the same records. He makes these requests, despite knowing that the March requests are part of an ongoing OIPC review (*i.e.*, the first fee dispute). Making numerous and repeated requests in that context is, in my mind, not a good faith exercise of access rights under FIPPA.

[40] In addition, the evidence provided by both parties demonstrates that the respondent is using records received earlier from PCTIA and the Ministry as a springboard for further requests. Those further requests are primarily expressions of the respondent's opinion and criticism of how PCTIA dealt with ClearMind and Rutherford. This indicates to me that the respondent is using FIPPA for a purpose other than a good faith desire to access information in the records he requests. Therefore, I find that the April 17, September 30, October 20 and November 12 requests are vexatious requests under s. 43(b) of FIPPA.

³¹ The May 26 and September 20 requests are also repetitious but PCTIA has not asked for authorization to disregard them.

November 27 request

[41] The November 27 request is for records that contain the respondent's personal information, so it is not a repeat of his other requests. Based on PCTIA's submissions and evidence, which the respondent does not refute, I am satisfied that any of the respondent's personal information is in records he already has regarding his 2014 complaint and his access requests. The respondent does not explain why he wants another copy of those records, and there is nothing to suggest that the November 27 request was made for the purpose of gaining access to information that he does not already have. Previous decisions have found that frivolous requests include those that are "trivial or not serious", or have been made primarily for a purpose other than gaining access to information.³² In my view, the November 27 request meets that criteria, and I find that it is frivolous under s. 43(b) of FIPPA.

[42] **What relief, if any, is appropriate?** – Given that I find that s. 43(b) applies to the April 17, September 30, October 20, November 12 and 27 requests, I find that PCTIA is authorized to disregard them.³³ However, PCTIA's request to disregard the March requests is denied because I am not satisfied that they are repetitious, systematic, frivolous or vexatious.

[43] PCTIA also requests relief regarding any future requests for records that the respondent may make. Specifically, it says:

...The Agency therefore also requests the following reasonable limits be placed on the Respondent's ability to make future requests:

- The Respondent may only have one open request at a time with the Agency being authorized to determine what a single access request is;
- The Agency is not required to respond to requests that seek records already produced or which the Respondent has been advised do not exist;
- The Agency is not required to spend more than ten hours responding to each request of the Respondent's; and
- Any other relief the OIPC deems reasonable in the circumstances.³⁴

[44] PCTIA has satisfied me that responding to the respondents' access requests causes a significant burden in terms of staff time and effort. Clearly, it has been difficult and time-consuming for PCTIA to understand the respondent's numerous emails (often several in one day) to determine whether they contain an

³² Auth. (s. 43) 02-02, [2002] B.C.I.P.C.D. No. 57, at para. 27.

³³ Consequently, the second and third fee disputes that relate to those requests are cancelled: OIPC files F15-61601 and F15-63490.

³⁴ PCTIA initial submissions, para. 4.

access request, what records he wants, and if the request repeats or overlaps earlier requests. Also, many of the respondent's requests were for several categories of records and were very sweeping. Further, the respondent has the tendency of repeating his requests when he is dissatisfied with PCTIA's response.

[45] Previous BC Orders have limited respondents to one open request at a time, for a specified period, leaving it up to the public body to determine what a request is. They have also authorized a limit on how many hours a public body must spend responding to each request. In my view, it is appropriate in the present case to order similar relief and direction regarding the respondent's future access requests. Therefore, I grant PCTIA's request to limit the number of open access requests to one and to spend at most ten hours on each. However, in my view, it is not necessary or warranted to have this continue indefinitely, so I have set a two year limit on this authorization. PCTIA is, of course, entitled to apply for further relief under s. 43 after the two years, if it believes that such relief is warranted.

[46] PCTIA also asked for authorization to disregard requests for records that have already been disclosed to the respondent or which the respondent has been advised do not exist. Public bodies do not normally require relief under s. 43 to deal with such requests.³⁵ Although some past orders have granted this type of relief, based on the facts of this case, I am not satisfied that it is appropriate here. Responding to such a request would certainly be a brief exercise and merely require referencing the previous request and PCTIA's response to it. On that point, I note that future confusion would be minimized if PCTIA were to assign a discrete file number to each FIPAA request, so that the request and response could be tracked.

CONCLUSION

[47] For the reasons provided above, I grant the following authorization under s. 43 of FIPPA:

1. PCTIA is authorized to disregard the respondent's April 17, September 30, October 20, November 12 and November 27, 2015 access requests.
2. PCTIA is authorized, for a period of two years from the date of this order, to disregard all access requests made by the respondent, or made on his behalf, over and above one open access request at a time.

³⁵ Decision F11-04, 2011 BCIPC 40, at para. 15.

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3. Subject only to the direction in paragraph 4 below, PCTIA may determine what comprises one open access request.
 4. The “March requests”, dated March 18 and 20, 2015 (K, L and O in PCTIA’s lawyer’s affidavit) shall be treated as one open access request.
 5. PCTIA is not required to spend more than ten hours responding to any one open access request.
 6. For the purposes of the above, an “open access request” is a request for records under s. 5 of FIPPA, to which PCTIA has not responded under s. 8 of FIPPA.

May 3, 2016

ORIGINAL SIGNED BY

Elizabeth Barker, Senior Adjudicator

OIPC File No.: F15-63378