Order F25-64

VANCOUVER COMMUNITY COLLEGE

Lisa Siew
Adjudicator

August 14, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (the respondent) requested Vancouver Community College (College) provide access to records about himself. The College made an application to the Office of the Information and Privacy Commissioner (OIPC) for the authority to disregard two of the respondent's access requests under ss. 43(a) (vexatious request), 43(b) (record already disclosed) and 43(c) (unreasonable interference with the public body's operations) of FIPPA. It also requested the authority to disregard any future access requests made by the respondent for a period of one year. The adjudicator determined one of the respondent's requests was excessively broad and that responding to it would unreasonably interfere with the College's operations; therefore, the College was authorized to disregard that request under s. 43(c)(i). However, the adjudicator found the College did not meet its burden of proving that ss. 43(a), 43(b) or 43(c) applied to the respondent's second access request; therefore, the College was not authorized to disregard that request under s. 43. Regarding the College's request for future relief, the adjudicator authorized the College, for a period of one year, to disregard any future access requests made by the respondent over and above a single access request at a time.

Statute and sections considered in order: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 43(a), 43(b), 43(c)(i) and 43(c)(ii).

INTRODUCTION

[1] This proceeding is to decide Vancouver Community College's (College's) application to the Office of the Information and Privacy Commissioner (OIPC) for authorization, under s. 43 of the *Freedom of Information and Protection of Privacy Act* (FIPPA), to disregard two access requests from an individual (the respondent in this s. 43 application).

[2] The College's s. 43 application initially sought authorization to disregard one access request from the respondent. However, after the College provided its

initial submission for this proceeding, the respondent made an additional access request which consisted of multiple parts. The College requested and received the OIPC's permission to add the respondent's new access request to its s. 43 application.[1] Therefore, for its s. 43 application, the College is requesting the authority to disregard a total of two outstanding access requests from the respondent.

[3] The College submits the respondent's two access requests are vexatious under s. 43(a). The College also argues s. 43(b) applies because the respondent's access requests are for records that have already been disclosed to the respondent. The College further argues responding to the respondent's two access requests would unreasonably interfere with the College's operations because the requests are excessively broad under s. 43(c)(i) and repetitious or systematic under s. 43(c)(ii).

[4] The College seeks immediate relief by asking for authorization to disregard the two access requests. The College also requests future relief by asking for authorization to disregard any future access requests made by the respondent for one year.

PRELIMINARY MATTERS

[5] Based on the parties' submissions, there are a few preliminary matters that I need to address. First, the respondent has requested permission to make an additional submission for this proceeding. Second, the respondent challenges the legitimacy of the College's affidavit evidence. Lastly, the respondent's submission includes matters and complaints that were not included in the OIPC's notice of application to the parties. I will address those preliminary matters below.

Respondent's request to make an additional submission

[6] The OIPC's amended submission schedule provided to the parties explained the submission schedule and deadlines for this proceeding.[2] This schedule followed the OIPC's standard schedule for inquiry submissions as set out in the OIPC's *Instructions for Written Inquiries*.[3] It allowed the College to make an initial submission, gave the respondent an opportunity to respond to that submission and then allowed the College to reply to the respondent's submission. The schedule did not allow or require the respondent to provide a further submission.

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[1] OIPC letter dated October 21, 2024.
[2] Registrar's letters to the parties dated August 22, 2024, October 23, 2024, November 26, 2024, and December 17, 2024.
[3] At pp. 4-5 of the document, which is available online at: https://www.oipc.bc.ca/documents/guidance-documents/1658.

[7] The respondent, however, submits he should be allowed to make a further submission in response to the College's reply submission. The respondent says he was given only one opportunity to respond to the College's two submissions. The respondent argues it is only fair that he be allowed to provide the same number of submissions as the College. The respondent also argues he needs to make an additional submission to address several alleged lies in the College's initial submission and evidence. Specifically, the respondent says the College "told several lies in their initial submission and allegedly broke the codes of the Canadian and international law by lying through notarized documents."[4]

[8] As noted, as part of the submission schedule, the respondent was given an opportunity to respond to the College's initial submission and evidence. The respondent was also granted additional time to make his response submission.[5] Given the time extension, the respondent was able to address the applicability of s. 43 to his second access request if he chose to do so.[6] Furthermore, in his response submission, the respondent says his submissions "respond to the lies of [the College] with full evidence" and he also addresses the College's affidavit evidence.[7] Taking all this into account, I am not persuaded the respondent's right to be heard at this proceeding was impaired by the submission schedule or the OIPC's standard submission process. Instead, I find the respondent had an adequate opportunity to be heard in this case. As a result, I decline the respondent's request to make a further submission in this proceeding.

[9] On the topic of additional submissions, I note the College did not request the OIPC allow it to provide a new submission about the applicability of s. 43 to the respondent's second access request. The College's legal representative could have made this request when they applied for and received approval to add that request to the College's s. 43 application. Instead, the College's legal counsel argued in their application to the OIPC that the same issues and concerns the College had about the first access request also applied to the second access request.[8] Therefore, I understand the College is relying on the same arguments and evidence it provided for the respondent's first access request to support its position that s. 43 also applies to the second access request. Given the College and its legal counsel did not request an opportunity to make an additional or revised submission, I understand the College to take the position that its current submissions are sufficient to prove s. 43 applies to the respondent's second access request.

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[4] Respondent's submission dated February 26, 2025 at para. 17.
[5] Registrar's letter to the parties dated December 17, 2024.
[6] The respondent's second access request was made in October 2024. The College received approval to add that request to its s. 43 application in October 2024. The respondent provided his inquiry submission in February 2025.
[7] Respondent's submission dated February 26, 2025 at paras. 11 and 20-33.
[8] College's letter to the OIPC dated October 16, 2024.

[10] I also note the College provided a reply submission in response to the respondent's submission. In its reply submission, the College's legal counsel made some brief arguments about the second request.[9] Therefore, I find the College had an opportunity to address how s. 43 applied to the respondent's second access request.

[11] I considered whether the respondent should be given an opportunity to respond to what the College says in its reply submission. Usually, if the public body introduces new evidence or arguments in their reply submissions, then it may be fair to allow the other party to respond. However, I find the College's arguments about the second request were responsive to what the respondent says in his submission about the applicability of s. 43.[10] The College's response submission about the second access request does not introduce any new arguments or evidence. Therefore, I find the respondent does not need to respond to the College's reply submission for me to fairly decide the issues in dispute in this proceeding.

[12] For all those reasons, I conclude the parties were given sufficient opportunities to provide arguments and evidence in support of their positions regarding s. 43 and no further submissions are required for this proceeding.

Dispute over College's affidavit evidence

[13] The respondent challenges the accuracy of the College's affidavit evidence and the credibility of the individuals who affirmed the affidavits. In support of its s. 43 application, the College provided an affidavit from its Associate Director of Risk Management and Privacy (Associate Director). The respondent accuses the Associate Director of perjury, dishonesty and defamation and alleges the affidavit contains incorrect and misleading information.[11]

[14] The College also provided an affidavit from its Privacy Coordinator. The respondent submits the Privacy Coordinator's affidavit "cannot be taken as a credible source of evidence or information" because it contains incorrect and misleading information, and the affidavit comes from a person who does not have direct knowledge of the relevant events and facts.[12]

[15] As an administrative tribunal, the OIPC is generally not bound by the strict rules of evidence that govern judicial proceedings.[13] The Commissioner or their

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[9] College's submission dated March 3, 2025 at paras. 11 and 16.
[10] College's submission dated March 3, 2025 at para. 11.
[11] Respondent's submission dated February 26, 2025 at paras. 7, 20, 21, 23.
[12] Respondent's submission dated February 26, 2025 at paras. 24-29.
[13] Decision F06-07, 2006 CanLII 32976 (BC IPC) at para. 12, quoting *Alberta (Workers' Compensation Board) v. Appeals Commission*, 2005 ABCA 276 at paras. 62-64; *Cambie Hotel (Nanaimo) Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA 119 at para. 28.

delegate has the authority and discretion to admit evidence that they consider relevant or appropriate for the purposes of deciding the matters at issue in an inquiry or an application, whether or not that evidence would be accepted in a court of law.[14] For example, hearsay evidence is admissible in administrative proceedings if it is relevant and can fairly be regarded as reliable.[15]

[16] I can see the Associate Director's affidavit provides a chronology about the various disputes and communications between the parties, including exchanges about the respondent's past access requests and the respondent's interactions with College employees and other individuals. The Associate Director also discusses certain recurring issues noted by them and others about the respondent's behaviour, the tone of his communications and his access requests. The Privacy Coordinator's affidavit also discusses the respondent's past access requests and the College's response to those requests but in greater detail than the Associate Director's affidavit. The Privacy Coordinator also outlines how much time and effort it would take to respond to one of the respondent's access requests at issue in this proceeding.

[17] Considering the s. 43 provisions at issue in this proceeding, I find the College's affidavit evidence is relevant and appropriate for the purposes of deciding the College's s. 43 application. I understand the respondent questions the reliability and accuracy of the College's affidavit evidence; however, I find those factors are relevant to the weight that I assign to this evidence and not its admissibility.[16] I also find there is no unfairness to the respondent in admitting the College's affidavit evidence for consideration in this proceeding. The respondent was given an opportunity to comment on the affidavit evidence and contradict it.

[18] For the reasons given above, I have accepted the College's affidavit evidence into this proceeding. I have considered it along with the rest of the College's submissions. The weight that I give to this affidavit evidence in terms of its reliability and accuracy is a separate matter which is incorporated into my analysis and findings about the College's s. 43 application.

Additional matters in the respondent's submissions

[19] The respondent's submission includes matters that fall outside the issues identified in the OIPC's notice of s. 43 application provided to the parties. For example, the respondent alleges certain individuals invaded his privacy, conspired to negatively impact his academic performance, improperly withheld or

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[14] *Cambie Hotel (Nanaimo) Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA 119 at para. 30; *British Columbia Lottery Corporation v. Skelton*, 2013 BCSC 12 (CanLII) at para. 64; Order F15-43, 2015 BCIPC 46 at para. 22.
[15] *Cambie Hotel (Nanaimo) Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA 119 at paras. 35-36.
[16] *Alberta (Workers' Compensation Board) v. Appeals Commission*, 2005 ABCA 276 at para. 67.

concealed information from him, plan to wrongfully delete records about him, and engaged in improper conduct such as harassment, bullying, discrimination and defamation. The respondent also accuses OIPC employees of improper behaviour and alleges the OIPC is improperly withholding information and records from him. The respondent also says the OIPC has unfairly stopped reviewing his complaints and his requests for review related to the College.

[20] Although I can see how important the respondent finds those additional matters, I conclude those matters fall outside the scope of the College's s. 43 application. I also note the OIPC has investigated the respondent's allegations that certain College employees breached his privacy; therefore, the OIPC has already addressed one of the respondent's privacy complaints.[17] Furthermore, I understand the respondent's complaints about the OIPC and its employees are currently being dealt with in accordance with Part 5, Division 2 of FIPPA which is a process separate from the College's s. 43 application.[18]

[21] It is also not within my jurisdiction under FIPPA to review or decide the respondent's other grievances and complaints about the College, its employees and other individuals. Instead, my role, as the Commissioner's delegate, is limited to determining the issues identified in the notice of application which was provided to the parties. Therefore, although I have fully reviewed all the materials provided by the parties, I will only refer to the parties' submissions and evidence where it is relevant to the FIPPA issues that I am deciding in this proceeding.

ISSUES AND BURDEN OF PROOF

[22] The issues I must decide for the College's s. 43 application are the following:

1. Are the respondent's two access requests vexatious under s. 43(a)?

2. Did the respondent request access to records that have already been disclosed to him in accordance with s. 43(b)?

3. Would responding to the respondent's two access requests unreasonably interfere with the College's operations because the requests are excessively broad under s. 43(c)(i)?

4. Would responding to the respondent's two access requests unreasonably interfere with the College's operations because the requests are repetitious or systematic under s. 43(c)(ii)?

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[17] Exhibit A of Associate Director's affidavit which is a letter from OIPC to the respondent dated December 22, 2023.
[18] Respondent's submission dated February 24, 2025 at para. 19.

5. If the answer to any of the above questions is "yes", what is the appropriate remedy?

[23] As the party applying for relief under s. 43, the College has the burden to prove that its s. 43 application should be granted.[19]

DISCUSSION

Background

[24] The College is a public post-secondary education institution which has two campuses in Vancouver, British Columbia.

[25] In 2022, the respondent enrolled in a class at the College.[20] The respondent and the instructor disagreed over a class project and other matters.

[26] In December 2022, the College issued the respondent a 24-hour suspension from attending the College because of the respondent's alleged "inappropriate and aggressive communication" with the instructor.[21] The suspension prevented the respondent from attending the last day of class. The respondent was eventually given an "Unsatisfactory" grade for the class. The respondent disagreed with his final grade and challenged the fairness and accuracy of the grading process.

[27] In February 2023, the respondent filed a complaint against the instructor and several other College employees alleging harassment, bullying, discrimination, defamation, a conflict of interest and a breach of his privacy.[22] The College's Executive Director of Safety, Security, Risk and Privacy (Executive Director) investigated the respondent's privacy complaint. The College hired an external investigator to investigate the respondent's other complaints. The external investigator concluded the respondent's complaints were "frivolous and vexatious."[23]

[28] In May 2023, the respondent forwarded his concerns about a breach of his privacy to the OIPC. In December 2023, the OIPC investigator assigned to investigate the respondent's complaint concluded the respondent's personal information had been disclosed but the disclosure was authorized under FIPPA.

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[19] Auth. (s. 43) 99-01 (December 22, 1999) at p. 3, decision available on the OIPC website at <https://www.oipc.bc.ca/decisions/170>. Order F17-18, 2017 BCIPC 19 (CanLII) at para. 4.
[20] The information in this background section is compiled from the parties' submissions and evidence, unless otherwise indicated.
[21] College's initial submission at para. 5 and respondent's submission dated February 26. 2025 at Appendix A, point #15 at para. 7 (p. 33 of pdf).
[22] Appendix E (p. 50 of pdf) of respondent's submission dated February 26, 2025.
[23] College's initial submission at para. 33 and respondent's submission dated February 26. 2025 at Appendix E (p. 50 of pdf).

[29] Throughout 2023, the respondent appealed his "Unsatisfactory" grade for the class through the College's formal appeal process. The respondent's grade appeal was denied. The respondent further appealed his final grade to the College's Education Council on Educational Matters (Education Council) on the grounds of a lack of due process and the relevance of new information.[24] In September 2023, a committee of the Education Council issued its decision which allowed the respondent's appeal and ordered a new review of the respondent's final grade for the class.[25]

[30] Sometime during this formal appeal process, the President of the College placed the respondent on a "temporary safety suspension," which prevented the respondent from attending the College, because his communications with members of the appeal committee were allegedly "hostile, insulting and dismissive."[26] The respondent filed a complaint against the College's president for suspending him from the College for "illegitimate reasons."[27]

[31] The background information that I have outlined above is to provide context to the issues I must decide for the College's s. 43 application and the two access requests at issue. It is not meant to capture every aspect of the parties' extensive history, interactions and disagreements.

The access requests at issue in this proceeding

[32] On June 27, 2024, the College received the following access request from the respondent: "All the information about [the respondent] at College's servers between September 1, 2022 and June 27, 2024."[28] I will refer to this access request as the June 2024 access request.

[33] The College initially informed the respondent that the June 2024 request was not a valid access request under FIPPA because it was a request for information and not a request for records.[29] The College asked the respondent to revise or clarify the scope of his June 2024 request, but the respondent did not provide any clarification or revision.[30] The College did not respond to the June 2024 access request. Instead, on July 4, 2024, the College applied to the OIPC for the authority to disregard the June 2024 access request under s. 43.

[34] The College is correct that s. 4 of FIPPA gives an applicant "a right of access to a record" in the custody or under the control of a public body and not a

[24] Appendix B of the respondent's submission dated February 26. 2025.
[25] Appendix B at p. 3 of the respondent's submission dated February 26. 2025.
[26] Associate Director's Affidavit at para. 35. I was not provided with a copy of the alleged communications.
[27] Respondent's submission dated February 26. 2025 at Appendix E (p. 51 of pdf).
[28] Respondent's letter to the College dated June 27, 2024.
[29] Exhibit R of Privacy Coordinator's affidavit.
[30] Privacy Coordinator's affidavit at para. 25.

right of access to information.[31] However, even if the College had disregarded the June 2024 request because it was supposedly not a valid access request under FIPPA, I find it likely that the respondent would have simply resubmitted their request with the necessary revisions. The ultimate result, therefore, would be the same with the College applying to the OIPC for authority to disregard that revised request under s. 43. Therefore, to provide the parties with a decision about their fundamental dispute and to avoid prolonging that dispute, my analysis under s. 43 will proceed on the basis that the June 2024 request was a request for: any records on the College's servers, between September 1, 2022 and June 27, 2024, that contain information about the respondent.

[35] I will now discuss the second access request at issue in this proceeding. On October 13, 2024, the College received the following access request from the respondent, which consists of multiple parts:

- "All the respondent's submitted packages for his suspension by the College and all the response packages by the [President of the College] to the respondent's submission packages."

- "All the respondent's submitted packages under the title of his grade appeal to the College and the response packages by [four named individuals], as well as the full council meeting video recorded by [the Chair of the Education Council.]"

- "All the correspondence between the [College] board members and [the respondent] including the attachments."[32]

[36] I will refer to this request as the October 2024 access request. The College has not responded to the October 2024 request. As noted, on October 21, 2024, the College received the OIPC's permission to add the October 2024 request to its s. 43 application.

Authority to disregard an access request – s. 43

[37] FIPPA gives individuals a "significant statutory right" to access records under the custody or control of a public body, including records containing one's own personal information.[33] However, that right of access should not be misused or abused. When someone abuses their access rights under FIPPA, it can have serious consequences for the access rights of others by overburdening a public

[31] The word "record" is partly defined in Schedule 1 of FIPPA to include "books, document… letters…papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means." Therefore, under FIPPA, a request for access to a record is different from a request for access to information.
[32] Respondent's access request to the College dated October 13, 2024.
[33] Auth. (s. 43) 99-01, *supra* note 19, at p. 3.

body and impacting the public body's ability to respond to those other requests.[34] It can also harm "the public interest" by unnecessarily adding to a public body's costs of complying with FIPPA.[35]

[38] Section 43, therefore, serves as "an important remedial tool in the Commissioner's armoury to curb abuse of the right of access."[36] It allows the Commissioner or their delegate to grant the extraordinary remedy of limiting an individual's right to access records under FIPPA.[37] For that reason, the Commissioner's authority under s. 43 should be exercised after careful consideration since it can limit or take away a person's statutory right of access under FIPPA.[38]

[39] Under s. 43, the Legislature has identified several scenarios where it would be appropriate for the Commissioner to authorize a public body to disregard an access request. The College is requesting relief under ss. 43(a), 43(b), 43(c)(i) and 43(c)(ii). I will first consider ss. 43(c)(i) and (ii). If I find none of the provisions under s. 43(c) apply, I will then consider s. 43(b) and, if necessary, s. 43(a).

Section 43(c): unreasonable interference

[40] Section 43(c) of FIPPA gives the Commissioner or their delegate the power to authorize a public body to disregard an access request that would unreasonably interfere with the operations of the public body because the request is excessively broad under s. 43(c)(i) or because the request is repetitious or systematic under s. 43(c)(ii).

[41] The College is relying on both ss. 43(c)(i) and (ii). Sections 43(c)(i) and (ii) require the following two step-analysis: (1) Are the access requests at issue excessively broad, repetitious or systematic? (2) If so, would responding to those requests unreasonably interfere with the College's operations?[39]

Are the respondent's access requests excessively broad under s. 43(c)(i)?

[42] An excessively broad request under s. 43(c)(i) is an access request that would result in an "overwhelming" or "inordinate" volume of responsive records.[40] The focus is on the volume or number of responsive records that the request

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[34] *Ibid* at p. 8.
[35] *Ibid*.
[36] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at paras. 32-33.
[37] Order F22-08, 2022 BCIPC 8 (CanLII) at para. 26.
[38] Auth. (s. 43) 99-01, *supra* note 19 at p. 3.
[39] Order F25-19, 2025 BCIPC 23 (CanLII) at para. 38.
[40] Order F23-98, 2023 BCIPC 114 (CanLII) at para. 39.

would likely generate and not on the amount of time and effort the public body would need to spend searching for the relevant records.[41]

[43] In some cases, a public body may need to do a preliminary search to provide evidence that demonstrates the access request at issue would likely result in an excessive volume of responsive records.[42] In other cases, the wording of the access request alone may be sufficient to prove that the access request would generate a significant and overwhelming number of responsive records. For example, the adjudicator in Order F23-98 was satisfied that an access request for "all emails to government" would generate an overwhelming and, therefore, excessive volume of responsive records.[43]

[44] In the present case, the College submits the June 2024 and October 2024 requests are excessively broad. For the June 2024 request, the College says this request "on its face" is excessively broad because "there are no records identified, no topic, events, incidents, other individuals or discrete departments specified."[44]

[45] To determine the number of responsive records for the June 2024 request, the Privacy Coordinator consulted with the College's Associate Director of IT Service Management. Based on that conversation, the Privacy Coordinator estimates there may be approximately 8,000 emails that would be responsive to the request. The Privacy Coordinator also estimates there are 7,000 pages of other responsive records consisting of "email attachments, letters, reports, Moodle posts, survey responses, course assignments, earlier correspondence with instructors and the records that arise from [the respondent's] various [College] processes" and other unidentified information about the respondent that may exist on the College's servers.[45] Therefore, the College estimates the June 2024 request would produce at least 15,000 pages of responsive records.

[46] For the October 2024 request, as previously noted, the College is relying on the same arguments and evidence it provided for the June 2024 request to support its position that the October 2024 request is excessively broad under s. 43(c)(i).[46]

[47] The respondent did not directly address the College's arguments about the excessively broad nature of his June 2024 request. The respondent does, however, note that the October 2024 request is different from the June 2024

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[41] Order F23-98, 2023 BCIPC 114 (CanLII) at paras. 38 and 42.
[42] Order F23-98, 2023 BCIPC 114 (CanLII) at para. 41.
[43] Order F23-98, 2023 BCIPC 114 (CanLII) at para. 40.
[44] College's initial submission at para. 81.
[45] Privacy Coordinator affidavit at para. 38.
[46] College's letter to the OIPC dated October 16, 2024.

request. The respondent says the October 2024 request "constitutes different characteristics" and that he has not previously received those "files" before.[47]

[48] For the reasons that follow, I am satisfied the June 2024 request is excessively broad, but that the October 2024 request is not. The June 2024 request was for any record on the College's servers containing information about the respondent between September 1, 2022 and June 27, 2024. The June 2024 request is not limited to a specific type of record such as an email or a letter or any type of parameters that would narrow the request to a specific set of records. Instead, this access request would encompass all records for the specified timeframe containing even a small amount of information about the respondent such as, for example, a class registration list or a meeting invite sent by email.

[49] The parties' submissions and evidence also demonstrate there were numerous interactions and disputes between the respondent and College personnel such as a variety of complaints and College-related appeals. I am satisfied that these incidents likely resulted in a considerable number of documents and correspondence related to the respondent that would be contained on the College's servers.

[50] The College's evidence also indicates the College has provided the respondent with approximately 8,600 pages of records in response to the respondent's past access requests.[48] Those previous access requests range in time from June 2023 to June 2024, with most of the requests seeking access to email records involving the respondent. In contrast, the timeframe for the June 2024 request covers a longer period of one year and ten months and the request is not limited to emails, which means there would be more than 8,600 pages of records covered under the June 2024 request's timeframe. The respondent's June 2024 request also did not exclude any records that the College previously provided to the respondent; therefore, the June 2024 request would also include the approximately 8,600 pages that were already provided to the respondent. For all those reasons and the ones discussed above, I am satisfied the June 2024 request would result in an inordinate number of records and the request is, therefore, excessively broad under s. 43(c)(i).

[51] I will now consider the October 2024 request. The October 2024 request consists of multiple parts, which suggests this request could result in a high number of responsive records. However, I was not provided with an estimate on the number of responsive records the October 2024 request would likely generate. I also note that unlike the June 2024 request, the October 2024 request is limited to a specific set of records, events and individuals. For example, the October 2024 request includes a request for all the respondent's submitted packages for his suspension by the College and all the

[47] Respondent's October 18, 2024 letter to the OIPC's registrar of inquiries at p. 3 of pdf.
[48] Privacy Coordinator's affidavit at para. 41.

correspondence between the College board members and the respondent including the attachments.[49] The narrower focus of the various parts of the October 2024 request means the potential number of responsive records would not be the same as the June 2024 request. Therefore, I am not persuaded the same factors that established the June 2024 request was excessively broad also apply to the October 2024 request. Ultimately, there is insufficient explanation and evidence for me to conclude the October 2024 request is excessively broad.

Is the respondent's access request repetitious under s. 43(c)(ii)?

[52] I found the June 2024 request is excessively broad, while the October 2024 request is not. I do not need to consider whether the June 2024 request is also repetitious or systematic under s. 43(c)(ii) because I already found that it is excessively broad under s. 43(c)(i). Therefore, I will only consider whether the October 2024 request is repetitious or systematic under s. 43(c)(ii).

[53] A repetitious request is an access request that has been made more than once.[50] In determining whether an access request is repetitious under s. 43(c)(ii), it is necessary to compare the access request at issue with the respondent's previous access requests.[51] The access request in dispute will be repetitious under s. 43(c)(ii) if the respondent previously made an access request, to which the public body has already responded, for the same record.[52]

[54] An access request may also be repetitious when there is a sufficient connection between that request and a previous access request. For example, in Decision F05-01, former Commissioner Loukidelis found an access request was repetitious because it related to the same event and the same record as another access request to which the public body had already responded.[53] Specifically, both access requests were about a letter regarding an employment dispute between the respondent and the public body.

[55] In the present case, the College submits the October 2024 request is repetitious.[54] The College argues many of the respondent's previous access requests are "repetitious in the sense that they seek the same or substantially the same information."[55] However, the question under s. 43(c)(ii) is not whether the respondent's past access requests are repetitious but whether the respondent

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[49] Respondent's access request to the College dated October 13, 2024.
[50] Order F25-44, 2025 BCIPC 52 (CanLII) at para. 42, citing Decision F12-01, 2012 BCIPC 22871 (CanLII) at para. 5. Authorization (s. 43) 02-01, September 18, 2002 at para. 17, found online at the OIPC's website: https://www.oipc.bc.ca/documents/decisions/159.
[51] Authorization (s. 43) 02-01, September 18, 2002, *supra* note 50 at para. 24.
[52] Order F13-18, 2013 BCIPC 25 (CanLII) at para. 15.
[53] Decision F05-01, 2005 CanLII 11955 (BCIPC) at paras. 17-18, the letter was dated July 15, 1997.
[54] College's submission dated March 3, 2025 at para. 11.
[55] College's submission dated September 4, 2024 at para. 90.

previously made an access request for the same records that are now being sought in the October 2024 request. The respondent says he has not repeated any of his previous access requests.

[56] Both parties provided a chronology and description of the respondent's previous access requests, which began in June 2023, and copies of the related correspondence. I have carefully reviewed that information, and I am not persuaded the October 2024 request is repetitious. The October 2024 request seeks access to several submission packages related to two specific events and a video recording. It does not appear that any of the respondent's previous requests, to which the College has already responded, sought access to those same records or were about those specific records.

[57] I note that another part of the October 2024 request seeks access to "All the correspondence between the [College] board members and [the respondent] including the attachments."[56] I can see that several of the respondent's previous requests seeks access to emails about him, with most requests seeking access to the emails of specific individuals who were involved in events or decisions related to the respondent.[57] However, there is insufficient evidence and explanation that allows me to understand how any of the respondent's previous requests would have included the requested correspondence between the respondent and the College board members.

[58] For example, it is not apparent, and the parties did not identify, which individuals were College board members at the relevant time. As well, the October 2024 request sought correspondence and not just emails which means the October 2024 request may include other types of records not previously requested by the respondent such as letters or memos. Lastly, some of the respondent's previous access requests are for specific timeframes. It is unclear whether any of those timeframes would cover the requested correspondence between the respondent and the College board members.

[59] Ultimately, based on the materials before me, I am not persuaded the October 2024 request asks for the same records as previous requests or that there is a sufficient connection between the October 2024 request and a previous access request that would make the October 2024 request a repetitious request as interpreted by past orders. As a result, I find the October 2024 request is not repetitious under s. 43(c)(ii).

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[56] Respondent's access request to the College dated October 13, 2024.
[57] For example, College's submission dated September 4, 2024 at paras. 36, 40-44 and respondent's submission at Appendix F and G.

Is the respondent's access request systematic under s. 43(c)(ii)?

[60] I will now consider whether the October 2024 request is systematic under s. 43(c)(ii). The word "systematic" is not defined in FIPPA. However, previous decision-makers have found the word "systematic" means something that is characterized by a system and, therefore, a systematic request is an access request that was made according to a method or plan of acting that is organized and carried out according to a set of rules or principles.[58]

[61] As well, previous OIPC orders have found an access request is systematic when the respondent engages in the following behaviours:

- A pattern of requesting more records, based on what the respondent sees in records already received.
- Deliberately combing over records to identify further issues.
- Revising earlier freedom of information requests.
- Systematically raising issues with the public body about its responses to the respondent's freedom of information requests, and then often taking those issues to the OIPC for an investigation or review.
- Behaviour which suggests the respondent has no intention of stopping the flow of requests and questions, all of which relate to essentially the same records, communications, people and events.
- An increase over time in the number of access requests that the respondent makes to the public body.[59]

[62] These circumstances indicate that any alleged method or plan may only be evident from reviewing the respondent's past access requests and the parties' related correspondence.[60] Therefore, in determining whether an access request is systematic under s. 43(c)(ii), it may be necessary to compare the access request at issue with the respondent's previous access requests to uncover a system or pattern of behaviour.

[63] In the present case, both parties provided a table which outlines and describes the respondent's previous access requests. The parties also discussed their contentious history and provided copies of the correspondence between the

[58] For example, Authorization (s. 43) 02-01, September 18, 2002, *supra* note 50 at para. 17.
[59] Order F13-18, 2013 BCIPC 25 (CanLII) at paras. 25 (and the cases cited there) and para. 26 (citing Decision F06-03, 2006 CanLII 13535 (BC IPC).
[60] Authorization (s. 43) 02-01, September 18, 2002, *supra* note 50 at para. 24.

respondent and College personnel related to the respondent's previous access requests.

[64] The College submits the October 2024 request is part of the respondent's systematic approach of requesting records from the College to prove the College's processes are corrupt and that the College has engaged in illegal conduct. The College describes the respondent's system as a pattern which includes combing through the records contained in a response package to identify further issues and to request further related records.

[65] The College also says the respondent utilizes the records he has received to ask questions, make comments and to email individuals identified in the records to demand additional information. The College further notes the respondent has filed complaints and requests for review to the OIPC challenging the College's responses to several access requests. The College submits all these behaviours were found to be systematic in previous OIPC orders.[61]

[66] The respondent disagrees with the College's characterization of his actions. The respondent explained his motives for making some of his previous access requests.[62] For example, in March 2024, the respondent requested the College provide access to all emails about him for an approximately three-month period.[63] The respondent says he made that request because his former email address had been "hacked."[64] I understand the respondent to mean he made the request to obtain copies of emails he lost because of the hacking incident.

[67] The respondent also argues he would not have needed to make some of his access requests or involve the OIPC if the College had responded to his questions and to his requests in a complete and timely manner. For example, the respondent says he was required to make formal access requests under FIPPA because certain individuals failed to provide the records when he contacted them and informally asked for the records.[65] Therefore, the respondent argues some of his access requests were due to the actions of College personnel.

[68] For his current access requests, the respondent says his only goal is to "receive a full response free of manipulation and concealment of data before the legal retention of time of [his] data expires."[66] The respondent says he needs this

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[61] College's submission dated September 4, 2024 at paras. 86, 87 93, citing Decision F06-12, 2006 CanLII 42644 (BCIPC); Order F18-37, 2018 BCIPC 40 (CanLII); and Order F13-18, 2013 BCIPC 25 (CanLII).
[62] Appendix E, F and G of Respondent's submission dated February 26, 2025.
[63] Appendix G of Respondent's submission dated February 26, 2025.
[64] *Ibid*.
[65] Respondent's submission dated February 26, 2025 at para. 28.
[66] Respondent's submission dated February 26, 2025 at para. 32.

information for legal and administrative proceedings that he plans to pursue against the College and others.[67]

[69] I have carefully considered the respondent's previous access requests, the parties' related correspondence and the parties' extensive history. Considering that combined information and the rest of the materials before me, I am satisfied the respondent has engaged in the following behaviours:

- Consistently complained about College personnel involved in or connected to the various disputes related to the respondent. Has also challenged the outcome and legitimacy of College investigations, decisions or appeal processes related to those disputes and complaints.

- Requested records related to those various disputes to uncover evidence College personnel and other individuals wrongfully acted against him or conspired with others to produce decisions unfavourable to the respondent.

- Consistently requested records about individuals connected to the various disputes related to the respondent or about individuals that make decisions affecting the respondent.

- Regularly criticized how College's employees handled and fulfilled his various requests, including raising issues with their responses to his questions and access requests and then often taking those issues to the OIPC.

- Frequently complained to the College that College personnel breached his privacy and then took those complaints to the OIPC.

- Consistently requested further records from the College because he believed College personnel were improperly withholding all or parts of a record or had modified records.

- Reviewed records obtained from prior access requests to identify further issues or concerns about College personnel, processes or decisions that then become the subject of new access requests.

[70] Considering all the above, I find there is a consistent method or pattern to some of the respondent's previous access requests.[68] The respondent has filed a series of requests which were aimed at systematically uncovering records about him and his various dealings, issues or disputes with the College. This pattern is

[67] Respondent's submission dated February 26, 2025 at para. 44.
[68] The College provided other examples and arguments about the respondent's conduct, but I have only identified the behaviours that I find shows the respondent has acted according to a method or system.

largely driven by the respondent's belief that College personnel and other individuals have acted improperly against him and have tried to prevent him from uncovering their illegal conduct. Therefore, the question I need to answer at this point is whether the October 2024 request is a part of the respondent's previous pattern of behaviour.

[71] I can see that like the respondent's past access requests, most of the October 2024 request is about College-related decisions and processes, some of which the respondent disagrees with such as his suspension from the College. Furthermore, like some of the respondent's past requests, part of the October 2024 request seeks records related to individuals that were involved in those decisions or processes such as the Chair of the Education Council, College board members and the College President.

[72] However, unlike most of the respondent's previous access requests, the October 2024 request seeks access to some records that the respondent created or should already have in his possession due to his participation in the relevant events or communications. For example, the October 2024 request includes a request for all the respondent's packages that were submitted to the College regarding his suspension and all the correspondence between College board members and the respondent.[69] The October 2024 request also includes a request for records about a process and decision that resulted in a positive outcome for the respondent, specifically records related to the Education Council's decision to allow the appeal of his final class grade. I find those differences between the October 2024 request and his previous requests supports the respondent's position that some of his access requests were made to obtain records that were lost because his email was hacked rather than to uncover evidence of wrongdoing on the part of the College and its staff.[70]

[73] I also note some of the respondent's previous pattern of behaviour does not apply to the October 2024 request. For example, there is no evidence the respondent made the October 2024 request because he combed through previous records and identified further issues that then formed the basis for the October 2024 request. There is also no evidence the respondent made the October 2024 request to obtain records or information that the respondent believed the College had improperly withheld from a previous access request. Therefore, based on the materials before me, I am unable to conclude the October 2024 request was a part of the respondent's previous system of requesting access to records from the College. Accordingly, I find the October 2024 request is not systematic under s. 43(c)(ii).

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[69] Respondent's access request to the College dated October 13, 2024.

[70] The respondent did not explicitly make this argument about the October 2024 request, but I find his submission about the hacking incident and a previous access request is relevant here.

Would responding to the access requests unreasonably interfere with the College's operations?

[74] I found the June 2024 request is excessively broad under s. 43(c)(i), while the October 2024 request is not excessively broad, repetitious or systematic under s. 43(c). Therefore, it is only necessary for me to consider whether the June 2024 request meets the second part of the s. 43(c) analysis, which requires me to consider whether responding to the June 2024 request would unreasonably interfere with the College's operations.

[75] The BC Supreme Court has said the determination of what constitutes an unreasonable interference with a public body's operation under s. 43 rests on an objective assessment of the facts and will vary depending on the size and nature of the public body's operation.[71] To make this determination, past OIPC orders have considered the public body's estimate of the time and resources needed to process and respond to the access request at issue and the impact on the public body's ability to complete its other tasks and responsibilities, including responding to the requests of other access applicants.[72]

[76] In assessing a public body's estimates, Adjudicator Fedorak said in Order F25-41 that a public body does not need to prove "with certainty the exact number of records involved and the precise number of minutes required to process each record."[73] In that case, Adjudicator Fedorak accepted the public body's estimates because it was based on "a logical and systematic approach" and the public body had "provided calculations to demonstrate the logic of their submission."[74] I agree with that approach.

[77] In the present case, the College submits responding to the June 2024 request would unreasonably interfere with its operations. The Privacy Coordinator estimates that searching and gathering the records for the June 2024 request would take at least 200 hours. The Privacy Coordinator based this estimate on information provided by the College's IT Service Management department. The College says this department is sometimes asked to assist in gathering records for an access request. The IT department's evidence indicates the College does not have software that allows its employees to instantly search through all electronic records in the College's custody and control. Therefore, the College submits some of its systems and electronic records would need to be searched independently by its employees.

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[71] *Crocker v. British Columbia (Information and Privacy Commissioner)*,1997 CanLII 4406 (BC SC) at para. 37.
[72] For example, Decision F06-03, 2006 CanLII 13535 (BC IPC) at para. 54 (and the decisions cited there), Order F17-18, 2017 BCIPC 19 (CanLII) at para. 40 and Order F23-61, 2023 BCIPC 71 (CanLII) at paras. 70-71.
[73] Order F25-41, 2025 BCIPC 49 (CanLII) at paras. 29.
[74] Order F25-41, 2025 BCIPC 49 (CanLII) at paras. 29-30.

[78] The College also says all its service providers would need to conduct a search for responsive records given the broad scope of the June 2024 request which requests all information about the respondent on the College's servers. The College contends this search would require all its employees and service providers to set aside their usual duties and responsibilities to search for any responsive records related to the respondent. The Privacy Coordinator says they asked the respondent to revise or clarify the scope of his June 2024 request, but the respondent refused to provide any clarification or revision.[75]

[79] The Privacy Coordinator estimates the June 2024 request would produce at least 15,000 pages of responsive records, with more than half of those records likely duplicating records already provided to the respondent. After finding and gathering those records, the College states the following additional work is needed: (1) review, organize and sever the responsive records; (2) cross-reference the responsive records with past records already given to the respondent to determine if there are duplicates and ensure consistent severance of any duplicate records; and (3) convert the records to a PDF format.

[80] The Privacy Coordinator estimates it would take at least 780 hours to review and prepare all the necessary records to provide the respondent with a responsive records package. The Privacy Coordinator says this time would include reviewing the 8,600 pages of records previously provided to the respondent and the approximately 15,000 pages of records that would be gathered in response to the June 2024 request for a total of 23,600 pages of records that would need to be reviewed for duplicates and consistently severed. Considering the time and effort needed to respond under FIPPA to the respondent's request, the Privacy Coordinator argues the June 2024 request would negatively impact their other job duties and responsibilities, including receiving, reviewing and responding to other access requests, assisting other applicants, and their day-to-day administrative tasks.[76]

[81] The College notes the small size of its operations and submits a significant amount of its resources have been spent dealing with the respondent's requests. The College says it usually receives 10-12 access requests per year, and the respondent has accounted for 42% of the requests it received from 2023 to 2024. The College says its Executive Director was formerly the only full-time employee dedicated to access and privacy activities, which they had to manage along with their other employment duties. The College submits the respondent's previous access requests have strained its resources requiring the Executive Director to hire a consulting firm to assist with processing and responding to some of the respondent's previous access requests. The College says that it later created a new full-time position and hired the Privacy

[75] Privacy Coordinator's affidavit at para. 25 and Exhibit R of their affidavit.
[76] Privacy Coordinator's affidavit at para. 45.

Coordinator to handle the increased volume of work due to the respondent's requests and questions.

[82] The respondent disputes the College's estimate of the time needed to process his June 2024 request. The respondent argues the College's estimate of 780 hours is not true because an OIPC investigator told him the College only needed 50 hours to process 8,000 pages; therefore, the respondent estimates 23,600 pages would only take around 150 hours of work.[77] Alternatively, the respondent argues if the College truly needs 780 hours to prepare a complete records package, then he would be willing to wait for a full and proper response. The respondent says no one asked him whether he would "wait longer periods of time to receive the full response from [the College]."[78]

[83] For the reasons that follow, I find responding to the June 2024 request would unreasonably interfere with the College's operations. The College estimates responding to the request would take a total of 980 hours and involve the full-time efforts of its Privacy Coordinator and some work on the part of other individuals and employees. I accept the College's estimate and description of the time and work required to search for and prepare the responsive records. The College provided calculations and evidence to support its position. To better understand the scope of the work required to respond to the June 2024 request, I find the College's estimate of 980 hours is equivalent to approximately 28 weeks of work at an average of 7 hours per day, which amounts to around 7 months of full-time work.

[84] I understand the respondent disagrees with the College's estimates; however, I find the College's calculations and explanation of the work required to process the request is logical considering the excessively broad scope of the June 2024 request. The request would encompass all records for the specified timeframe containing even a small amount of information about the respondent. Furthermore, the respondent's June 2024 request did not exclude any records that the College previously provided to the respondent under FIPPA. Therefore, as noted by the College, the request would result in duplicate records that require cross-referencing and consistent severing of the records.

[85] I also accept the College's evidence about the size of its operations, which consists of one full-time employee dedicated to managing the College's duties and responsibilities under FIPPA, and that it receives an average of 10-12 access requests per year. These numbers show the College is a smaller operation that receives less access requests compared to other public bodies[79] and, therefore, employs less staff to manage its obligations under FIPPA.

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[77] Respondent's submission dated February 26, 2025 at para. 31.
[78] Respondent's submission dated February 26, 2025 at para. 31.
[79] For example, Order F25-41, 2025 BCIPC 49 (CanLII) at para. 23, which shows the public body in that case employed three full-time advisors who each processed about 62 requests a year.

[86] Given the size and nature of the College's operations, I find requiring its Privacy Coordinator to devote approximately 7 months of full-time work to respond to the June 2024 request would significantly impact the Privacy Coordinator's ability to fulfill their other job duties and responsibilities, including responding to the requests of other access applicants. This would effectively result in limited staff resources being available to respond to other access requests for more than half a year. Therefore, considering the size and nature of the College's operations, I find requiring the College to spend approximately 7 months responding to the June 2024 request would be an unreasonable amount of time for the College to spend on one access request and would negatively impact the rights of other access applicants.

[87] To alleviate the impact on the public body's operations, the respondent has now offered to wait for a full and proper response to his June 2024 request. However, it is unclear why the respondent waited until the College's s. 43 application to make that offer and did not attempt to work with the College earlier to revise his request to a more manageable scope. The College's evidence indicates the respondent has in the past been willing to work with the Privacy Coordinator to clarify and narrow some of his previous access requests.[80]

[88] The respondent says the College never asked him whether he would be willing to wait for a full and proper response to his June 2024 request. While I agree there is no evidence the College and the respondent discussed extending the College's response time, which is an option available under FIPPA,[81] the College's evidence does show the Privacy Coordinator contacted the respondent and tried to work with the respondent to clarify the scope of his June 2024 request.[82] I find this discussion was a missed opportunity for the respondent to address the College's concerns over his June 2024 request and would have been the appropriate time for the respondent to offer to wait for a response.

[89] With all that said, to be clear, my role in this proceeding is not to mediate a resolution of the parties' dispute, including determining whether the parties would now consent to suggestions and solutions that may address their concerns over the respondent's June 2024 request. Instead, my authority is limited to deciding the College's s. 43 application. For the reasons given above under s. 43(c), I have decided responding to the June 2024 request would unreasonably interfere with the College's operations because the June 2024 request is excessively broad under s. 43(c)(i).

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[80] For example, Privacy Coordinator's affidavit at para. 21 and Exhibit N.
[81] Sections 10(1)(d) and 10(2)(a) of FIPPA.
[82] Privacy Coordinator's affidavit at para. 25. The Privacy Coordinator provided copies of their relevant correspondence with the respondent about this matter at Exhibit R of their affidavit.

Section 43(b): Have the records already been disclosed to the respondent?

[90] I found s. 43(c) does not apply to the October 2024 request; therefore, I will now consider whether s. 43(b) applies. Section 43(b) of FIPPA gives the Commissioner or their delegate the power to authorize a public body to disregard a request that seeks access to a record that has already been disclosed to an applicant or that is accessible by the applicant from another source.

[91] The College seeks authorization under s. 43(b) to disregard the respondent's October 2024 access request because it contends the requested records have already been provided to the respondent.[83] The College says it has already disclosed over 8,000 pages of records to the respondent to satisfy his earlier access requests.[84]

[92] On the other hand, the respondent submits his previous requests do not repeat or overlap with one another. The respondent argues in some cases he needed to request certain records again because the College failed to properly provide him with the requested records.[85]

[93] I have reviewed the respondent's previous access requests to the College, the College's responses and the parties' related correspondence. It is clear to me the College has provided the respondent with some records in response to his previous access requests. However, it is not apparent, and the College did not identify, when it provided the respondent with the records specified in the October 2024 request. Where a public body is claiming the access request at issue is for records that have already been disclosed to an access applicant in accordance with s. 43(b), the public body needs to identify and provide details about when and how that access was previously given. I do not have that type of evidence or explanation in this case.

[94] For example, I note that part of the October 2024 request seeks access to "All the correspondence between the [College] board members and [the respondent] including the attachments."[86] I can see that several of the respondent's previous requests to the College seeks access to emails about the respondent, with most requests seeking access to the emails of specific individuals who were involved in events or decisions related to the respondent.[87] Therefore, I am satisfied the College already provided the respondent with some emails about himself. However, the parties did not identify, and it is not apparent

[83] The College did not argue or make submissions that the records are accessible to the respondent from another source; therefore, I have only considered whether the records have already been disclosed to the respondent.
[84] College's submission dated September 4, 2024 at para. 76.
[85] Respondent's submission dated February 26, 2025 at paras. 27-28.
[86] Respondent's access request to the College dated October 13, 2024.
[87] For example, College's submission dated September 4, 2024 at paras. 36, 40-44 and respondent's submission at Appendix F and G.

from the parties' evidence or submissions, which individuals were College board members at the relevant time. As a result, I am unable to determine whether any of the respondent's previous requests included emails between the respondent and the relevant College board members.

[95] Ultimately, based on the materials before me, I am not persuaded the records listed in the October 2024 request have already been disclosed to the respondent for the purposes of s. 43(b).

Section 43(a): Is the respondent's access request vexatious?

[96] I found ss. 43(c) and 43(b) do not apply to the October 2024 request; therefore, I will now consider whether s. 43(a) applies. Section 43(a) of FIPPA gives the Commissioner or their delegate the power to authorize a public body to disregard access requests that are frivolous or vexatious. The College seeks authorization under s. 43(a) to disregard the respondent's October 2024 request because it says that request is vexatious.[88]

[97] The term "vexatious" is not defined in FIPPA. However, previous OIPC decisions and orders have determined that a vexatious request is made for a purpose other than a genuine desire to access information, such as those made in bad faith, for a malicious motive or for the purpose of harassing or obstructing the public body.[89] In Order F25-49, Adjudicator Fedorak clarified that an access applicant is acting in bad faith when they use their access rights under FIPPA "solely for the ulterior motive of causing harm to the public bodies through the FIPPA request process itself usually through voluminous or burdensome requests."[90]

[98] Previous OIPC decision-makers have also found requests are vexatious in the following circumstances:

- The purpose of the request was to pressure the public body into changing a decision or taking an action.
- The respondent was motivated by a desire to harass the public body.
- The intent of the request was to express displeasure with the public body or to criticize the public body's actions.

[88] The College did not argue the October 2024 request was frivolous; therefore, I will only consider whether the October 2024 request is vexatious under s. 43(a).
[89] For example, Auth. (s. 43) 02-02 (November 8, 2002) at paras. 20, 22 and 27, decision available on the OIPC website at: <www.oipc.bc.ca/decisions/172> and Order F13-18, 2013 BCIPC 25 (CanLII) at paras. 33, 35-36.
[90] Order F25-49, 2025 BCIPC 57 (CanLII) at para. 20.

- The request was intended to be punitive and to cause hardship to an employee of a public body.[91]

[99] These examples and circumstances demonstrate that an access request is vexatious under s. 43(a) when the respondent has "an ulterior motive unrelated to any genuine interest" in accessing the requested records.[92] Moreover, recent OIPC orders have clarified that it is the act of making the access request itself that must be vexatious.[93]

[100] I agree with the above-noted considerations and principles and will apply them to the facts of this inquiry.

College's position on s. 43(a)

[101] The College submits the respondent's October 2024 request is vexatious because the respondent made the request for the following reasons:

- To prove the various investigations and appeals decided in the College's favour were the result of wrongdoing and collusion.

- To gather evidence of wrongdoing by College employees, including evidence that College employees conspired to harm the respondent.

- To punish or embarrass individuals who the respondent views as having wronged him.

- To express displeasure with the College and to criticize the College's actions and its processing of his access requests.

[102] To support its position, the College provided a chronology and description of the respondent's past access requests. The College says the respondent has made 13 access requests to the College since June 2023. The College also notes that it has already provided the respondent with approximately 8,000 pages of records in response to his previous access requests. The College also provided a history of the various interactions and disputes involving the respondent and the College or other individuals.

[103] The College argues this combined information shows the respondent has a pattern of requesting access to records related to individuals who become involved in his matters or who make decisions the respondent disagrees with. The College submits the respondent is improperly utilizing FIPPA to seek all the

[91] Order F22-08, 2022 BCIPC 8 (CanLII) at para. 83 and the decisions and orders cited therein.
[92] Order F24-38, 2024 BCIPC 46 (CanLII) at para. 12.
[93] For example, Order F25-07, 2025 BCIPC 55 (CanLII) at para. 34 and Order F25-49, 2025 BCIPC 57 (CanLII) at para. 20.

information those individuals may have about him or "to support his theory that those individuals have engaged in unlawful behaviour ranging from corruption to concealment of records to defamation."[94]

[104] The College also argues the contents of the respondent's past access requests, and their related communications, shows the respondent is dissatisfied with how the College handled his previous access requests and that he distrusts the College's investigations into issues that arose between the respondent and various College employees. Similarly, the College says the respondent's current access request "rests upon unfounded allegations of wrongdoing by various individuals" and on the suspicion that the College is deliberately withholding records from him.[95]

[105] Considering that context and history, the College says the October 2024 access requests is the latest in a series of requests made by the respondent for ulterior purposes other than a genuine interest in the records. The College submits the October 2024 request is vexatious if you consider the respondent's previous access requests, the respondent's communications with the College, and the contentious history between the parties.

Respondent's position on s. 43(a)

[106] The respondent submits he made his October 2024 request for legal proceedings that he plans to pursue against the College and others.[96] The respondent says the requested records contain legal evidence he plans to use for "federal investigation and federal litigation processes that will be initiated against [the College] and [the College's President].[97] The respondent also says he intends to use the requested records for an application "to the Ombudsperson for a grade appeal and to the BC Supreme Court for judicial review."[98]

[107] The respondent also disputes the College's allegations about his behaviour and intentions in making the current access request. The respondent argues the College is falsely presenting him as "a bad person and as a wrongdoer" when it was College employes who were "the absolute wrongdoers."[99] The respondent says he has a genuine interest in the records to uncover any "connections and wrongdoings committed by the College staff against [him]."[100] Among other things, the respondent alleges College personnel may have collaborated with others to plant "spy gadgets" such as hidden

[94] College's initial submission at para. 70.
[95] College's initial submission at para. 67.
[96] Respondent's submission dated February 26, 2025 at paras. 11 and 44.
[97] Respondent's access request to the College dated October 13, 2024.
[98] Respondent's access request to the College dated October 13, 2024.
[99] Respondent's submission dated February 26, 2025 at para. 21.
[100] Respondent's submission dated February 26, 2025 at para. 21.

cameras and listening devices in his residence, and to conduct home intrusions and the digital hacking of his electronic devices.[101]

[108] The respondent also says he made a total of seven access requests to the College rather than the 13 requests claimed by the College.[102] The respondent says he made some of his requests because the College failed to provide him with all the requested records. The respondent submits he would not have made some of his past access requests if the College had responded to his other requests in a complete and timely manner. Therefore, the respondent argues the number of his access requests to the College was due to the "wrongdoings" of College personnel and not because of any alleged vexatious behaviour on his part as argued by the College.[103]

College's response submission regarding s. 43(a)

[109] The College reaffirms its position that the respondent does not have a genuine interest in the currently requested records. The College argues the respondent's inquiry submission supports its position because it shows the respondent's motive for making his access request was his unfounded belief that the College allegedly engaged in the following improper conduct: concealing or destroying records subject to an access request, lying to the OIPC and other public bodies, corruption, failing to respond to his past access requests in a full and timely manner and that the College colluded with others to break into the respondent's home to plant surveillance devices.

[110] Citing Order F18-37, the College argues these types of groundless accusations by the respondent support a finding that the respondent's current access request is vexatious.[104] The College also relies on Order F18-37 to argue that an access request is vexatious when an access applicant made the request to investigate the sufficiency of a public body's response while the same matter is being investigated or reviewed by the OIPC. Relying on that reasoning, the College contends the respondent's current request is vexatious because the respondent is similarly attempting to circumvent the OIPC's complaint and review process. The College argues the respondent should have waited for a resolution of his complaints and requests for review to the OIPC instead of making the current request at issue. The fact that the respondent did not wait, submits the College, means the respondent did not make his current request for a proper purpose.

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[101] Respondent's submission dated February 26, 2025 at paras. 12-16.
[102] Respondent's submission dated February 26, 2025 at para. 29.
[103] Respondent's submission dated February 26, 2025 at para. 29.
[104] Order F18-37, 2018 BCIPC 40 (CanLII).

Analysis and findings on s. 43(a)

[111] For the reasons that follow, I am not persuaded the respondent's October 2024 request is vexatious under s. 43(a). The respondent explained that he is interested in accessing the records listed in his October 2024 request to pursue court proceedings against the College and others and to file a complaint with the BC Ombudsperson about his grade appeal. As I will discuss below, this type of motivation for seeking access under FIPPA has been considered in previous OIPC orders about s. 43.

[112] Past OIPC orders have determined that an access request is not vexatious under s. 43 when the respondent is genuinely seeking records for use in legal proceedings related to a live issue or grievance with the public body.[105] However, if a respondent is requesting records about a matter that is no longer in dispute between the parties or where it is obvious that an action cannot succeed, then it raises questions about the respondent's genuine need or interest in the requested records. For example, Adjudicator Fedorak accepted that "a respondent who repeatedly and persistently perseveres in actions that they understand cannot succeed would be acting in a vexatious manner" for the purposes of s. 43, but they must be "conscious of the fact that their actions cannot succeed."[106]

[113] In the present case, the records identified in the respondent's October 2024 request are about the respondent's suspension from the College and about his grade appeal. I was not able to determine from the parties' materials that those matters are no longer live issues or grievances between the parties. For example, I was not provided with persuasive evidence or arguments that would allow me to conclude that all possible legal avenues and processes that the respondent could pursue about those matters have been exhausted or expired. It is also not apparent that the respondent knows or should obviously know that his proposed legal claims and complaints will not succeed.

[114] Instead, I find the parties' submissions and evidence indicate the respondent has persistently shown an interest in contesting and pursuing those matters against the College and others.[107] The respondent has also said that he lost copies of some records in his possession because his email was hacked.[108] This incident would explain why the respondent is seeking access to records in his October 2024 request that the respondent created or should already possess such as his own submissions to the College regarding his suspension and his

[105] For example, Decision F07-08, 2007 CanLII 42406 (BC IPC) at paras. 35-36 and Order F21-02, 2021 BCIPC 2 (CanLII) at para. 55 and Order F20-33, 2020 BCIPC 39 (CanLII) at paras. 42.
[106] Order F25-14, 2025 BCIPC 17 (CanLII) at paras. 25-26.
[107] For example, College's submission dated September 4, 2024 at paras. 8-11 and Respondent's submission dated February 26, 2025 at paras. 21-22, 23(a), 28 and Appendix A.
[108] Appendix G of Respondent's submission dated February 26, 2025.

grade appeal. I also find it relevant both parties accept the respondent strongly feels he has been treated unfairly by the College and suspects College personnel have colluded with others to harm him.[109] All those reasons would support the respondent's position that he is legitimately exercising his access rights under FIPPA to uncover evidence of wrongdoing and to hold the College and others accountable.

[115] Therefore, while I make no determination about the merits of the respondent's legal claims or the validity of his suspicions, I accept that the respondent is interested in finding ways to hold the College and others accountable and that the records listed in his October 2024 request have value and significance for the respondent. I recognize the respondent has not specifically identified what litigation he intends to pursue or how the requested records would assist with those legal proceedings; however, without sufficient evidence or explanation to prove otherwise, I accept that the respondent genuinely believes the requested records are relevant for those proposed proceedings.

[116] The College argues the respondent's suspicions are groundless and unjustified; therefore, the fact the respondent is seeking records to prove his unfounded suspicions and allegations means the request is vexatious. However, as previously noted, past orders have clarified that it is the act of making the access request itself that must be vexatious. For example, in Order F25-49, Adjudicator Fedorak said the following about how previous orders have interpreted what is a vexatious request under s. 43:

> …As indicated above, these orders have found requests to be vexatious where the respondents had no genuine interest in the requested information itself. In those cases, it was the act of making the requests that was vexatious. The respondents in those cases were attempting to cause the public bodies hardship, such as imposing an unreasonable administrative burden, by forcing them to process requests, where the respondent had no genuine interest in the information that the requests would produce. Those respondents were acting in bad faith because they were using their rights under FIPPA solely for the ulterior motive of causing harm to the public bodies through the request process itself, usually through voluminous or burdensome requests.[110]

[117] In other words, for s. 43(a) to apply, the request must be vexatious in the sense that the purpose of the request is to vex or harass the public body rather than to seek access to the requested records and their contents.[111]

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[109] For example, College's submission dated September 4, 2024 at paras. 1, 70 and 95.
[110] Order F25-49, 2025 BCIPC 57 (CanLII) at para. 20.
[111] Order F25-14, 2025 BCIPC 17 (CanLII) at para. 33.

[118] The College argues the respondent made the October 2024 request to punish the College for how it handled his previous access requests and his various complaints and grade appeals. However, it is unclear how responding to the October 2024 request, in accordance with Part 2 of FIPPA, would be a form of punishment or how it would harm the College and cause a hardship sufficient to justify curtailing the respondent's access rights under FIPPA. For example, it does not appear that the October 2024 request is overly burdensome since the request focuses on specific identifiable records.

[119] Furthermore, unlike some of the respondent's previous access requests, it is not apparent that the respondent made the October 2024 request to obtain records the respondent believed the College had improperly withheld from a previous access request. Instead, the October 2024 request seeks access to records that the respondent did not previously request from the College, which supports the respondent's position that he is legitimately interested in those records.

[120] Lastly, citing Order F18-37, the College argues an access request is vexatious when an applicant made that request to investigate the sufficiency of a public body's response to another access request that is currently being investigated or reviewed by the OIPC. However, I find the facts and evidence in this case are not like what was before the adjudicator in Order F18-37.

[121] In Order F18-37, an access applicant made several requests to a public body to prove that public body did not adequately respond to one of their previous access requests, even though the public body's response to that request was already being investigated through the OIPC's complaint process.[112] The adjudicator in Order F18-37 found the access requests at issue in that inquiry were vexatious and not made in good faith because it was clear the applicant was "attempting to conduct his own investigation" and that "it is an abuse of the rights conferred by FIPPA to, in essence, conduct a collateral complaint investigation while the same issue is before the OIPC."[113]

[122] In the present case, I was not provided with any evidence that shows the October 2024 request is the subject of a complaint or request for review to the OIPC. Instead, as previously mentioned, the College did not respond to the October 2024 request because it sought and obtained the OIPC's approval to add the October 2024 request to its s. 43 application. Therefore, the circumstances regarding the October 2024 request are clearly different from the ones present in Order F18-37. As a result, I am not satisfied that it is appropriate in this case to apply the same reasoning and make the same findings as the adjudicator did in Order F18-37.

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[112] Order F18-37, 2018 BCIPC 40 (CanLII) at para. 58.
[113] Order F18-37, 2018 BCIPC 40 (CanLII) at para. 59.

[123] Ultimately, based on the materials before me and for the reasons given, I am not persuaded the respondent made his October 2024 request for an improper purpose or malicious motive such as to punish, criticize or harass the College, or to pressure the College to take some action other than responding to the request. There was insufficient evidence and explanation to support the College's position that the respondent made the October 2024 request for a vexatious intent rather than a genuine interest in the requested records and their contents. Therefore, I conclude the respondent's access request is not vexatious under s. 43(a).

What is the appropriate remedy in these circumstances?

Is the College authorized to disregard the respondent's current requests?

[124] The BC Supreme Court has found that it would be entirely appropriate for the Commissioner to authorize a public body to disregard a pending request if the Commissioner concludes the criteria under s. 43 have been met.[114] The BC Supreme Court has also clarified that s. 43 is remedial and not punitive in nature and its purpose is to curb abuse of the right of access.[115] I interpret the Court's statements to mean a remedy under s. 43 is not warranted when the public body has not established there is a s. 43 harm or abuse that needs to be addressed.[116]

[125] The College has requested the authority to disregard the October 2024 request. I found the provisions relied on by the College under ss. 43(a), 43(b) and 43(c) did not apply to the October 2024 request. Therefore, the prerequisites under s. 43 have not been met for the October 2024 request and no remedy under s. 43 is available for this request. As a result, I conclude the College is not authorized under s. 43 to disregard the October 2024 request.

[126] The College has requested the authority to disregard the June 2024 request. I determined responding to the June 2024 request would result in an unreasonable interference with the College's operations because the request is excessively broad under s. 43(c)(i). Therefore, I find it appropriate to authorize the College to disregard the June 2024 request under s. 43(c)(i).

Is the College authorized to disregard the respondent's future requests?

[127] The Commissioner or their delegate has the power, under s. 43, to make prospective orders by authorizing public bodies to disregard future access

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[114] *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BCSC) at para. 26.
[115] *Crocker v British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BCSC) at paras. 32-33.
[116] Order F24-02, 2024 BCIPC 2 (CanLII) at para. 14.

requests when the circumstances warrant such relief.[117] Previous OIPC orders have tailored any future relief to the circumstances of each case and have considered factors such as a respondent's right to their own personal information; whether there are live issues between the public body and the respondent; the nature of past requests; and whether there are other avenues available to the respondent to obtain information.[118]

[128] The BC Supreme Court has clarified, however, that "the remedy fashioned by the Commissioner must redress the harm to the public body seeking the authorization."[119] The Court said any remedy the Commissioner authorizes under s. 43 must be proportional to the harm inflicted and must bear in mind the objectives of s. 43.[120] I interpret the Court's statements to mean, when a public body has proven a provision under s. 43 applies, then it is appropriate for the Commissioner to provide a public body with future relief, but that relief must be designed to prevent the harm or abuse specified in that s. 43 provision.

[129] The Court has also provided guidance on what type of future relief under s. 43 is appropriate. The Court has advised that it is generally not appropriate under s. 43 for the Commissioner to authorize a public body to disregard all future requests for records, even for one year and especially when it comes to a request for the individual's own personal information.[121] The BC Supreme Court said it would be more appropriate to authorize the public body to disregard future requests "in specified circumstances" such as requiring the public body "to deal with only one request at a time" or "to disregard a request for records if it would take the staff of the public body more than a specified number of hours to comply with the request."[122]

[130] In Order F25-47, Adjudicator Lonergan followed this measured approach in granting the public body in that case future relief to prevent an unreasonable interference with its operations because the request was excessively broad under s. 43(c)(i). Adjudicator Lonergan determined the criteria under s. 43(c)(i) had been met and authorized the public body to do the following:

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[117] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at paras. 40-41.
[118] Order F23-61, 2023 BCIPC 71 (CanLII) at para. 72 and the orders cited there.
[119] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at para. 45 and *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BC SC) at para. 29.
[120] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at para. 45 and *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BC SC) at para. 25.
[121] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at para. 45 and *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BC SC) at para. 29.
[122] *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BC SC) at para. 30.

> In order to prevent an unreasonable interference with AIBC's operations, I find it appropriate to authorize AIBC to disregard the respondent's current access request.
>
> However, I recognize that alone will not suffice. I expect the respondent still wants access to the requested records, so it is possible he will split the current 25-part request into multiple, separate requests. I have no doubt that responding to all of those requests at once would unreasonably interfere with AIBC's operations, defeating the relief this order is intended to provide.
>
> In my view, an appropriate remedy is to authorize AIBC to disregard all access requests made by the respondent over and above a single access request at a time, for a period of two years. This approach addresses the excessive consumption of AIBC's resources while preserving the respondent's ability to reasonably exercise its access rights.
>
> Finally, this remedy should not be circumvented by the respondent including multiple categories of requested records in a single letter because doing so is, in substance, making multiple access requests at the same time. Therefore, I find that it is appropriate to give AIBC the discretion to determine what constitutes a single access request.[123]

[131] I will consider the College's request for future relief bearing in mind the BC Supreme Court's guidance about authorizing future relief under s. 43 and Adjudicator Lonergan's approach to future relief under s. 43(c)(i), with which I agree is appropriate for the purposes of s. 43(c)(i).

[132] The College requests future relief under s. 43 by asking for authorization to disregard any future access requests made by the respondent for a period of one year. The College submits the respondent is clearly dissatisfied with how he was treated by College staff. It argues the respondent will continue to use FIPPA as a tool to express his frustrations and "harass those who he considers [to] have wronged him."[124] Therefore, the College says a prospective order limiting the respondent's requests for one year is an appropriate remedy as it will impose a "cooling off" period between the College and the respondent.[125]

[133] The College further submits a one-year s. 43 authorization is "proportional and commensurate with the objectives of section 43 of FIPPA, which is to avoid requests that are vexatious, systematic, repetitive, and excessively broad."[126] It argues any other limitation, such as limiting the College's response time or authorizing the College to respond to one open access request at a time, would

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[123] Order F25-47, 2025 BCIPC 55 (CanLII) at paras. 74-77.
[124] College's submission dated September 4, 2024 at para. 124.
[125] College's submission dated September 4, 2024 at para. 124.
[126] College's submission dated September 4, 2024 at para. 123.

not address "the broad and excessively repetitious nature of the access requests made by the respondent."[127]

[134] The respondent argues the College's request for "a one-year long ban" on his future access requests would be detrimental to him because he says the College is only legally required to retain his "data" for one year.[128] The respondent says if the College is authorized to disregard his access requests for one year, then none of his "data" will be available after that year because the College would have deleted it.[129]

[135] In response, the College contends the respondent's concerns about the deletion of his data are unfounded. It notes that s. 31 of FIPPA "requires public bodies to ensure that, if personal information is in its custody and control and is used by or on behalf of the public body to make a decision that directly affects the individual, the public body must ensure that personal information is retained for at least one year after being used so the person affected has a reasonable opportunity to obtain access to that personal information."[130] The College says it has and will continue to comply with FIPPA regarding the retention of the respondent's personal information. The College also says that it has already provided the respondent with his personal information and disclosed approximately 8,000 pages of records in response to his previous access requests.

[136] I found the College has proven the criteria under s. 43(c)(i) has been met. Therefore, the s. 43 objective in this case and any future relief that I may authorize under s. 43(c)(i) must be to prevent excessively broad requests that would result in an unreasonable interference with the College's operations.

[137] Consistent with past orders, I have considered the circumstances of this case to determine what future relief is appropriate. I note this is the first time the respondent has refused to clarify or narrow the scope of his access request.[131] Unlike with his current June 2024 request, the respondent has previously cooperated with the College to clarify and narrow the scope of several of his past access requests.[132] I also find most of the respondent's previous access requests and his current requests are about records containing his personal information. Therefore, to authorize a general one-year ban would deprive the respondent of the right to make future access requests for his personal information that are not

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[127] College's submission dated September 4, 2024 at para. 125.
[128] Respondent's submission dated February 26, 2025 at para. 37.
[129] Respondent's submission dated February 26, 2025 at para. 37.
[130] College's submission dated March 3, 2025 at para. 15.
[131] Privacy Coordinator's affidavit at para. 25 and respondent's access request dated June 27, 2024.
[132] Appendix G in respondent's submission dated February 26, 2025 and Privacy Coordinator's affidavit at paras. 20-23.

excessively broad and that would not be an unreasonable interference with the College's operations.

[138] As a result, contrary to the College's arguments, I find it would not be a proportional remedy under s. 43(c)(i) to authorize the College to disregard any future access request made by the respondent for one year. As previously noted, the Court has advised that it is generally not appropriate under s. 43 for the Commissioner to authorize a public body to disregard all future requests for records, even for one year and especially when it comes to a request for the individual's own personal information.[133]

[139] I conclude, however, that some future relief is appropriate in these circumstances. I note the respondent did not wait for a decision about the College's s. 43 application before making his October 2024 request. Moreover, as argued by the College, it is clear from the respondent's submissions and from what he says in his June 2024 request to the College that the respondent will continue pursuing the records that he has requested in his June 2024 request. Therefore, to prevent the respondent from defeating the relief this order will provide to the College, I adopt the approach taken by Adjudicator Lonergan in Order F25-47 regarding future relief under s. 43(c)(i).

[140] I conclude an appropriate remedy in this case is to authorize the College to disregard all access requests made by the respondent over and above a single access request at a time, for a period of one year. Like Order F25-47, I conclude this remedy should not be circumvented by the respondent including multiple categories of requested records in a single letter because doing so is, in substance, making multiple access requests at the same time. Therefore, I find that it is also appropriate to give the College the discretion to determine what constitutes a single access request.

[141] Given the circumstances, I am satisfied this approach is a more proportional remedy under s. 43(c)(i) that will prevent the unreasonable interference with the College's operations while also preserving the respondent's ability to reasonably exercise his access rights under FIPPA.

CONCLUSION

[142] For the reasons given above, I make the following conclusions and authorizations under s. 43:

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[133] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at para. 45 and *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (BC SC) at para. 29.

1. The College is not authorized, under ss. 43(a), (b) or (c) to disregard the respondent's October 2024 request. It is required to respond to this request in accordance with Part 2 of FIPPA.

2. The College is authorized, under s. 43(c)(i), to disregard the respondent's June 2024 request.

3. The College is authorized, for a period of one year from the date of this authorization, to disregard all access requests that the respondent submits over and above a single access request at a time.

4. I authorize the College to treat the October 2024 request as a single access request for the purposes of the authorization granted under item 3 above. To be clear, if the respondent submits another access request while the College is responding to the October 2024 request in accordance with Part 2 of FIPPA, the College is authorized to disregard that new access request.

5. After the College has responded to the October 2024 request, the College is authorized to determine what constitutes a single access request for the purposes of the authorization granted under item 3 above.

August 14, 2025

ORIGINAL SIGNED BY

Lisa Siew, Adjudicator

OIPC File No.: F24-97560