

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-15

May 17, 2016

EDMONTON CATHOLIC SEPARATE SCHOOL DISTRICT NO. 7

Case File Number 002612

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Edmonton Catholic Separate School District No. 7 (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for general information relating to meetings between Trustees or the Superintendent and two named individuals. The Public Body initially attempted to work with the Applicant and narrow his request but once advised by the Applicant that he would not narrow his request, the Applicant did not hear anything further from the Public Body.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limits set out in section 11 of the Act. Therefore, the Adjudicator ordered them to do so.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 7, 8, 10, 11, 14, and 72.

I. BACKGROUND

[para 1] This inquiry arises from a request for records made by the Applicant to Edmonton Catholic Separate School District No. 7 (the Public Body) dated October 27, 2015. The Applicant requested all records involving any District trustee or the District Superintendent and two named individuals.

[para 2] On November 6, 2015, the Public Body sent a letter to the Applicant extending its time for responding to the Applicant's request pursuant to the Act and requesting information on the specific subject or topic of the records.

[para 3] On December 2, 2015, the Applicant responded to the Public Body's request for further details and stated very clearly that he would not be narrowing the scope of his access request unless the Public Body provided him with a citation from the Act that indicated that he needed to narrow the scope or, alternatively, with a fee estimate.

[para 4] The Applicant submitted a Request for Review to the Office of the Information and Privacy Commissioner which was received February 8, 2016. The Public Body did not respond to his letter of December 2, 2015.

[para 5] On April 5, 2016, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUES

[para 6] The Notice of Inquiry dated April 5, 2016 state the issue in this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

III. DISCUSSION OF ISSUES

Did the Public Body comply with section 11 of the Act (time limit for responding)?

[para 7] Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 8] In its November 6, 2015 letter, the Public Body did extend its time for responding pursuant to section 14 of the Act to November 23, 2015.

[para 9] The Public Body argues that it did comply with section 11 of the Act because it made, “every reasonable effort” to respond to the Applicant’s access request but was hindered in doing so by the Applicant’s refusal to narrow his request. It argues that section 7(2) of the Act requires that a request must be “in writing and must provide enough detail to enable the public body to identify the record.” The Public Body states that it did not initially know that the Applicant did not want to narrow his request and felt that his suggestion that he could get a consent signed by the mother of the student involved, indicated that the Applicant may have wanted only information relating to a particular student.

[para 10] The Public Body further argues that it was required by its duties under section 10 of the Act to attempt to assist the Applicant by giving him suggestions about how he could narrow his request. It feels that it was appropriate to ask the Applicant to narrow his request because of the potentially large volume of responsive records.

[para 11] Finally, the Public Body states that it could have chosen to consider the Applicant’s access request abandoned pursuant to section 8 of the Act when he did not respond to the Public Body’s letter of November 6, 2015 within 30 days. The Public Body argues that it did not receive the Applicant’s response to its November 6, 2015 letter for 35 days but still chose not to invoke section 8 of the Act. Since section 8 was not used by the Public Body, it is not relevant to this inquiry.

[para 12] I understand that the Public Body was not initially aware that the Applicant was not willing to narrow his access request and that it, correctly, believed that it was fulfilling its duty to assist the Applicant under section 10 of the Act by attempting to work with the Applicant to figure out what records he was looking for. That being said, the Applicant’s December 2, 2015 letter made it abundantly clear that the Applicant would not narrow his request without the Public Body either explaining its legal authority to require him to do so or providing a fee estimate. The Public Body did neither. The evidence I have before me suggests that following the Applicant’s December 2, 2015 letter there was no further communication from the Public Body to the Applicant. Needless to say more than 60 days (the 30 days provided by section 11(1) of the Act plus the 30 days the Public Body could extend using section 14 of the Act) has lapsed since December 2, 2015. Therefore, the Public Body is beyond the timelines set out in section 11 of the Act.

IV. ORDER

[para 13] I make this Order under section 72 of the Act.

[para 14] I find that the Public Body did not respond to the Applicant within the time limits set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body’s remaining duties under the Act.

[para 15] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with it.

Keri H. Ridley
Adjudicator