

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-28

July 9, 2018

UNIVERSITY OF ALBERTA

Case File Number 008889

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request to the University of Alberta (the Public Body), dated November 8, 2017. The Public Body acknowledged receipt of the request but has not yet provided a response as required by the *Freedom of Information and Protection of Privacy Act* (the Act).

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator ordered the Public Body to respond to the Applicant's access request as required by the Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72, 74.

I. BACKGROUND

[para 1] An Applicant made an access request to the University of Alberta (the Public Body), dated November 8, 2017. The Public Body informed the Applicant by letter dated December 8, 2017, that it was extending its time to respond to the request by 30 days, as permitted by the Act, as the request involved a large number of records. The Public Body later requested an extension to its deadline to respond to the request from this Office. That request was granted, extending the timeline to May 4, 2018.

[para 2] On June 5, 2018, this office received the Applicant's request for a review of the Public Body's failure to respond.

II. RECORDS AT ISSUE

[para 3] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 4] The Notice of Inquiry, dated June 12, 2018, states the issue for this inquiry as follows:

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

IV. DISCUSSION OF ISSUE

[para 5] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. 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 6] The Public Body admits that it failed to meet the requirements of section 11. In its submission, the Public Body noted that it exceeded the 75 day extension granted earlier by this Office. The Public Body explained that it has experienced a significant increase in the number of access requests made in the last several years, and that many requests are complex. It also explained that it has increased the number of staff in its Information and Privacy Office, but that it continues to struggle to meet the statutory timelines in the Act.

[para 7] Given the date of the Applicant's access request and other relevant correspondence, and the Public Body's acknowledgement that it did not comply with section 11 of the FOIP Act, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act. The relevant order-making authority is section 72(3)(a), which authorizes me to require that a duty imposed by the FOIP Act or the regulation be performed by a public body. Therefore, I will order the Public Body to respond to the Applicant as required by the Act.

[para 8] The Public Body has provided an anticipated timeline for responding to the request. It states that it expects the majority of the records to be processed in the third week of July 2018. The Public Body states that with respect to some records, third party consultations will be required, which will extend the time to process those records for the Applicant.

[para 9] The time for complying with an Order is set out in the Act as 50 days (section 74(1)). In this case, the Public Body has not requested additional time to comply; it noted only that some records will not be processed by the third week of July 2018. In any event, I cannot alter that time limit for compliance set out in the Act.

V. ORDER

[para 10] I make this Order under section 72 of the Act.

[para 11] I find that the Public Body did not respond to the Applicant within the time limit 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 12] I further 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 the Order.

Amanda Swanek
Adjudicator