Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

# INTERIM ORDER PO-4352-I

Appeal PA20-00566

Sheridan College Institute of Technology and Advanced Learning

February 8, 2023

**Summary:** Sheridan College Institute of Technology and Advanced Learning (the college) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for all records related to the requester's email account during a specified time period. The college partially disclosed the responsive records, withholding information under the mandatory exemption at section 21(1) (personal privacy) of the *Act*. The requester appealed that decision, and on appeal, the issues of reasonable search, fee estimate, and fee waiver were added to the scope of the appeal. During the inquiry, the appellant also raised the issue of bias on the part of the adjudicator, and the IPC as an institution. In this order, the adjudicator finds that the appellant has not sufficiently established bias, or a reasonable apprehension of bias, on her part or that of the IPC. She upholds the college's access decision, finds that the college has not established that it conducted a reasonable search, and orders a further search. The adjudicator also reduces the college's fee estimate to $210, but she upholds the college's decision not to waive the fee, and dismisses the appeal.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1) (definition of "personal information"), 21(1), 24, 57; Ontario Regulation 460, section 6.

**Orders Considered:** Orders MO-3727 and MO-4296

**Case Considered:** *Yukon Francophone School Board v. Yukon (Attorney General)* 2015 SCC 25 (CanLII).

## OVERVIEW:

[1] Sheridan College Institute of Technology and Advanced Learning (the college) received a request for information under the *Freedom of Information and Protection of Privacy Act* (the *Act*) as follows:

> Please provide all records relating to Sheridan email account for [requester's name] and its activities, including but not limited to, incoming emails, automatic replies sent, responses sent, IT maintenance of email accounts, all messages with full headers, all contacts and correspondences to the administrative assistant, responses sent by the administrative assistant to same, and any other activity of this account for the period from [a specified date] to present.

[2] The college issued a decision, accompanied by an index of records, granting partial access to responsive records, and withheld some information claiming the mandatory exemption at section 21(1) (personal privacy) of the *Act*.

[3] The requester, now the appellant, appealed the college's decision to the Information and Privacy Commissioner of Ontario (IPC).

[4] The IPC appointed a mediator to explore resolution. During mediation, the appellant advised that the college disclosed records dated no later than [the date specified in his request], and that he was also pursuing access to emails sent to him after that date to the present. The college conducted another search for responsive records from a specified date to the present. The college subsequently issued a revised decision, granting partial access to further responsive records, claiming section 21(1) of the *Act* over some of the information, and provided a descriptive index of records. It also stated that if the appellant wanted access to the reminder of the records, the college would send him a fee estimate once he confirmed interest.

[5] The college later issued a fee estimate of $860 for the remaining records, and provided a breakdown of the fee estimate. Following its fee estimate, the college also issued a letter denying the appellant's request for a fee waiver.

[6] The appellant informed the mediator that he would like to pursue at adjudication access to all withheld information, reasonable search, and the fee.

[7] As the adjudicator of this appeal, I conducted a written inquiry under the *Act* by sending a Notice of Inquiry, setting out the facts and issues on appeal, first to the college, and then to the appellant.[1] The parties provided representations in response. The college's representations were shared with the appellant, in full. The appellant

[1] The IPC initially received no responses from the college, and no email messages indicating that the recipient contact of record was no longer working at the college. The circumstances leading to the receipt of representations from the college are described under the Preliminary Issue of bias in this order.

alleged bias on my part, and that of the IPC, so I have added that as a preliminary issue.

[8] For the reasons that follow, I uphold the college's access decision and its decision not to grant a fee waiver. However, I uphold the college's fee estimate only in part, and I do not uphold the reasonableness of its search. I order it to conduct a further search for responsive records.

## RECORDS:

[9] The information withheld under section 21(1) of the *Act* is found in ten emails. In the relevant index of records to nine of these emails (records 1-3, 5, 6, 15-18), the college describes them as "student correspondence;" record 4 is described as "Correspondence from Sheridan Accessible Learning."

## ISSUES:

Preliminary issue: Is there bias, or a reasonable apprehension of bias, on my part, or that of the IPC, against the appellant?

A. Do the records contain "personal information" as defined in section 2(1), and if so, whose personal information is it?

B. Does the mandatory personal privacy exemption at section 21(1) apply to the information at issue?

C. Did the institution conduct a reasonable search for records?

D. Should the IPC uphold the institution's fee estimate?

E. Should the institution waive its fee?

## DISCUSSION:

### Preliminary issue: Is there bias, or a reasonable apprehension of bias, on my part, or that of the IPC, against the appellant?

[10] The appellant raises bias allegations, against me as the adjudicator of this appeal, and against the IPC. The law is clear that an allegation of bias, or reasonable apprehension of bias, is to be raised before the decision-maker in question.[2] For the reasons the follow, I find that the appellant has not established bias, or a reasonable apprehension of bias, on my part or that of the IPC.

[2] Orders PO-4128 at paragraph 40 and MO-4003-R.

## *Background*

[11] To begin my inquiry, I sent the Notice of Inquiry to the college via email.

[12] The IPC received no response to the Notice of Inquiry or any subsequent correspondence sent to the individual listed as the college contact person on file at the IPC. Significantly, the IPC also received no indication that the emails had not been sent successfully (or "bounced") due to any change of employment status or role of the college contact listed on record at the IPC.

[13] In the circumstances, I proceeded with the inquiry: I sent a Notice of Inquiry to the appellant, seeking representations in response,[3] within the standard three weeks provided for initial representations from a party. He requested, and received, an extension of several weeks.

[14] Shortly after receiving and reviewing the appellant's representations, I asked the adjudication review officer to try to contact the college by telephone, to ensure the contact person listed on file is correct. I would have needed to ensure the correct contact information was on file, whether the next step in the inquiry was seeking reply representations from the college in response to the appellant's representations, or ordering the college to conduct a further search (because it had not provided any evidence in the inquiry).

[15] The adjudication review officer telephoned the college's switchboard, and received a suggestion as to who to contact by email about an IPC appeal. He did so, and received a response the same day, advising that the emails to the other employee should have bounced back, along with information about who to contact instead. This email was copied to the individual that the college said should be the main contact, who in turn, asked that all correspondence addressed to her.

[16] I then re-issued the Notice of Inquiry to the college, granting it the standard three weeks to provide representations in response. I notified the appellant by letter that there had been difficulty contacting the college and that I had confirmed the correct contact information, and would be giving the college an opportunity to provide representations in the appeal.

[17] The college subsequently sought and received an extension to do so, for reasons detailed to me in its request.

[18] Upon my review of the college's representations, I re-sent a Notice of Inquiry to

---

[3] Given the lack of representations from the college, I advised the appellant that he may wish to consider only preparing representations in response to the first five issues listed in the Notice of Inquiry, including the issue of reasonable search (in order to assess the basis of his belief that additional records exist). The remaining two issues (fee/fee estimate and fee waiver) were included in the Notice of Inquiry but would have required evidence from the college to possibly uphold.

the appellant, and gave him an opportunity to respond both to it and the college's full representations.

[19] The appellant provided representations in response, containing allegations of bias, which I summarize below.

### *Allegations of bias on my part, and that of the IPC*

[20] The appellant states that less than a month after receiving his representations, I informed him that the college "would suddenly be allowed to make representations." He states that it is his "understanding that this is highly irregular, unreasonable, and inappropriate."

[21] To summarize his views on this issue, the appellant argues that the college was granted privileges that members of the public are not granted by the IPC; he also appears to disbelieve that the IPC's contact information on file was inaccurate.

[22] The appellant mainly argues that he does not believe that the IPC was unable to contact the college, that he is not afforded flexibility as institutional parties to IPC appeals are, and that the IPC has institutional bias. He believes the processing of this appeal was to the advantage of the college.

### *Analysis/findings*

[23] In administrative law, there is a presumption that, in the absence of evidence to the contrary, an administrative decision-maker will act fairly and impartially.[4]

[24] The onus of demonstrating bias is on the person who alleges it, and mere suspicion is not enough.[5]

[25] However, actual bias need not be proven. The test is whether there exists a "reasonable apprehension of bias." As confirmed by the Supreme Court of Canada in *Yukon Francophone School Board v. Yukon (Attorney General)*[6] the test for a reasonable apprehension of bias is undisputed and was first articulated by the Supreme Court of Canada as follows:

> [W]hat would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he

[4] Orders MO-3513-I, MO-3642-R and MO-4003-R.
[5] See, for example, Blake, S., *Administrative Law in Canada*, (3rd. ed.), (Butterworth's, 2001), at page 106, cited in Order MO-1519.
[6] 2015 SCC 25 (CanLII) at para 20.

> think that it is more like than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly.[7]

[26] In the same ruling, the Supreme Court of Canada stated:

> Because there is a strong presumption of judicial impartiality that is not easily displaced (*Cojocaru v. British Columbia Women's Hospital and Health Centre*, [2013] 2 SCR 357, at para 22), the test for a reasonable apprehension of bias requires a "real likelihood or probability of bias"[.]

[27] Applying this test to the circumstances of this appeal, having considered the appellant's representations, I find that the appellant has not provided sufficient evidence to displace the strong presumption of impartiality in administrative decision-making, either on my part, or on the IPC's more generally.

[28] I find that the appellant's allegations that members of the public are not treated as favourably are assertions that are not substantiated.

[29] In this inquiry, I provided both parties with the opportunity to respond to the issues on appeal, as well as *reasonable* extensions to do so upon request.[8] I also provided the appellant with the opportunity to review and respond to the college's representations, in order to assist him in preparing his own representations. In addition, I summarized the reason for re-starting the inquiry for the appellant. The fact that I did not provide details about each effort to contact the college, or some sort of electronic proof that all of the IPC's initial emails had not "bounced" was not required to proceed fairly and impartially.

[30] While the appellant notes that the college's address was the same in each of my letters, the letters clearly indicate that I was sending them via email and not via regular mail. The fact that the college had apparently not set up the former contact's email to return emails back to senders was not a matter I (or the IPC) could have known, and does not reflect bias, or a reasonable apprehension of bias, on my part or that of the IPC.

[31] Furthermore, large institutions, such as a college, can have thousands of employees; the fact that any or all of these individuals are publicly listed does not necessarily assist the IPC in determining which specific individual the IPC should be addressing its documentation to in any given appeal. Without any returned emails from

---

[7] *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369, at p 394, per de Grandpre J. (dissenting). The test was subsequently endorsed and clarified by the Supreme Court, for example, in *Wewaykum Indian Band v. Canada*, [2003] 2 SCR 259, at para 60 and *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, at para 46, among others.

[8] It is also not clear why the appellant appears to believe that I sent him a Notice of Inquiry when he would have been away. In any event, I granted his requested extensions. In addition, I make no findings about the reasonableness of any other extension requests that the appellant may have made in any other IPC appeals.

the college, it was reasonable to conclude that the emails had been successfully sent to the appropriate intended recipient. Drawing this conclusion is not evidence of bias, or a reasonable apprehension of bias, on my part or that of the IPC.

[32] As the appellant acknowledges, my efforts to confirm contact information were made shortly after receiving his representations. This undermines the notion that any delay that resulted was inordinate and prejudicial to his appeal.

[33] As noted, the next step(s) would have been either to seek reply representations from the college and/or (at the very least) order a further search, in the absence of any representations from the college. Therefore, it was necessary for me successfully contact the college. In the circumstances, I determined that the most efficient way of doing this was telephone contact. The fact that I took these steps is not evidence of bias, or a reasonable apprehension of bias, on my part or that of the IPC.

[34] While this confirmation resulted in the ability for the college to actually participate in the inquiry, this does not mean that I (or the IPC) are biased against the appellant, and favour the college. On this point, since the appellant raises concerns about, and objects to, my procedural decision to re-issue the college a Notice of Inquiry, it is worth noting that procedural rulings "against" a party, or an order dismissing an appeal, are in and of themselves, not evidence of bias.[9]

[35] In the circumstances, I find that an informed person, viewing the matter realistically and practically – and having thought the matter through – would not find it likely that I would be unfair in deciding this appeal based on the above processing history. There is also insufficient evidence before me that such a person would find it likely that the IPC could not process the appellant's appeal fairly.

[36] Given these findings, that the appellant has not established bias or a reasonable apprehension of bias on my part, or that of the IPC, I dismiss the appellant's bias allegations in this appeal.

## Issue A: Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

[37] In order to decide which sections of the *Act* may apply to a specific case, the IPC must first decide whether the record contains "personal information," and if so, to whom the personal information relates. For the reasons that follow, I find that the records contain the personal information of various identifiable students, and that none of the records contain the personal information of the appellant.

[9] *C.S. v. British Columbia (Human Rights Tribunal)*, 2017 BCSC 1268 at paragraph 164, affirmed 2018 BCCA 264.

### *What is "personal information"?*

[38] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual."

*Recorded information*

[39] "Recorded information" is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.[10]

*About*

[40] Information is "about" the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual.

[41] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.[11] See also section 2(3),[12] which says:

> (3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

[42] In some situations, even if information relates to an individual in a professional, official or business capacity, it may still be "personal information" if it reveals something of a personal nature about the individual.[13]

*Identifiable individual*

[43] Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.[14]

### *What are some examples of "personal information"?*

[44] Section 2(1) of the *Act* gives a list of examples of personal information. Examples of personal information that are listed in the *Act* include information relating to age, educational history, contact information, and an identifiable individual's views or

---

[10] See the definition of "record" in section 2(1).
[11] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.
[12] See also section 2(4), which says: "For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling."
[13] Orders P-1409, R-980015, PO-2225 and MO-2344.
[14] Order PO-1880, upheld on judicial review in *Ontario* (*Attorney General*) *v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

opinions.[15] If a person's name appears in a record with other personal information, their name is also personal information.[16]

[45] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."[17]

### ***Whose personal information is in the record?***

[46] It is important to know whose personal information is in the record. If the record contains the requester's own personal information, their access rights are greater than if it does not.[18] Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.[19]

[47] It is agreed that the appellant was a professor at the college until a certain date.

[48] Nor is it disputed that all of the emails at issue involve the appellant's employee email address(es). In other words, none of the emails identified as responsive are emails to non-college email addresses belonging to the appellant.

[49] The college describes nine of the emails as "student correspondence," and one (record 4) as "Correspondence from Sheridan Accessible Learning." Based on my review of the records, I find that these descriptions are accurate. In addition, the college submits, and I find, that the emails were implicitly confidentially submitted to the appellant in his capacity as the students' professor (or former professor).

[50] Having reviewed the ten emails at issue, I also agree with the college's submission, and find, that the emails do not contain the personal information of the appellant because the context of all the emails at issue was the student-professor relationship between the appellant and the respective students identifiable in the emails.

[51] The college submits, and I find, that the personal information withheld includes the students' names, email addresses, views or opinions, and/or student number. I find that record 4 also contains personal information relating to a student's accommodation. I find that all of the students are identifiable from the information at issue in the emails, and this information relates to them in their respective personal capacities.

---

[15] Information relating to age is listed at paragraph (a) of the definition of "personal information" at section 2(1) of the *Act*; information relating to educational, contact information, and an identifiable individual's views or opinions is listed at paragraphs (b), (d), and (g) of the definition of "personal information" at section 2(1), respectively.
[16] *Ibid*, paragraph (h).
[17] Order 11.
[18] Under sections 47(1) and 49 of the *Act,* a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.
[19] See sections 21(1) and 49(b).

[52] The appellant submits that the records contain his personal information, specifically, his full name, and his email addresses (which contain his first and last names), however, I find that the emails at issue all arise in the context of his professional work at one time or another, at the college. As a result, this information is not the appellant's "personal information," given section 2(3) of the *Act* ("Personal information does not include the name, . . . [or] contact information of an individual that identifies the individual in a business, professional or official capacity).

[53] Although the appellant argues that the email account in his name at the college is central to his professional network and research (and other professional activities), not affiliated with the college, and is therefore his personal information, that is not the case here. All of the emails at issue relate to the appellant's time as a college professor in some way. The fact that he may have also used his college-issued email address(es) to conduct non-college activities does not mean that the records before me contain the appellant's "personal information," as that term is defined in the *Act*.

[54] Furthermore, the appellant argues that email, by nature, involves the sender's consent to share the email with the recipient. I understand this to be an acknowledgement that the emails contain personal information relating to the students involved. In any event, the relevance of consent, if any, is a separate issue[20] from whether each email contains personal information of the appellant and/or another identifiable individual.

[55] Since the emails do not contain the personal information of the appellant, I must consider whether he has any right of access to the withheld personal information in them under the mandatory personal privacy exemption at section 21(1) of the *Act*.

**Issue B: Does the mandatory personal privacy exemption at section 21(1) apply to the information at issue?**

[56] As explained below, I uphold the college's decision to withhold the information at issue in the emails under the mandatory personal privacy exemption at section 21(1) of the *Act*.

[57] One of the purposes of the *Act* is to protect the privacy of individuals with respect to personal information about themselves held by institutions.

[58] Section 21(1) of the *Act* creates a general rule that an institution cannot disclose personal information about another individual to a requester. This general rule is subject to a number of exceptions.

[59] The section 21(1)(a) to (e) exceptions are relatively straightforward. If any of the five exceptions covered in sections 21(1)(a) to (e) exist, the institution must disclose the information.

---

[20] See Issue B in this order.

[60] The section 21(1)(f) exception is more complicated. It requires the institution to disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy." Other parts of section 21 must be looked at to decide whether disclosure of the other individual's personal information would be an unjustified invasion of personal privacy.

### *Do any of the exceptions in sections 21(1)(a) to (e) apply?*

*21(1)(a): prior written consent of the individual*

[61] The college states that parties whose personal information is in the emails have not provided prior written consent for the disclosure of their information.

[62] The appellant argues that the exception at section 21(1)(a) applies, as the emails were sent to him, so the senders consented to sharing the content of their emails with him.

[63] However, for the appellant to gain access to personal information in emails under the *Act* under section 21(1)(a), the individual whose personal information is contained in the record must have consented to the release of their personal information. This consent must be *in writing.* Furthermore, the consent must be given *in the specific context of the access request*, meaning that the consenting individual must know that their personal information will be disclosed in response to an access request under the *Act*.[21]

[64] Since there is no evidence before me that any of the individuals whose personal information is found in the respective emails consented to the disclosure of their personal information through this access request, the exception at section 21(1)(a) does not apply.

*21(1)(e): research*

[65] This exception provides for the disclosure of personal information for a research purpose.[22] In order for the information to be disclosed under the exception at section 21(1)(e):

- the disclosure of the information must be consistent with any conditions under which the personal information was provided, collected or obtained *or* there must have been a "reasonable expectation" that disclosure would be requested;
- there should be evidence that the research purpose for which the personal information has been asked for cannot reasonably be accomplished unless the personal information identifies specific individuals; *and*

[21] Order PO-1723.
[22] For a discussion of the meaning of "research," see Orders PO-2693 and PO-2694.

- the requester must have agreed to comply with the conditions relating to security and confidentiality set out in the regulations to the *Act*.

[66] To summarize, the college submits that the exception at section 21(1)(e) cannot compel the disclosure of the personal information at issue because none of these conditions have been met.

[67] The appellant argues that the exception for research at section 21(1)(e) applies, asserting that the information at issue is required to accomplish research for a book-length study on human resources in government institutions, such as Ontario colleges and universities.

[68] Having considered the parties' representations and the emails at issue themselves, I find that the there is insufficient evidence to establish that the exception at section 21(1)(e) applies. Regarding the first condition listed above, I find that there is insufficient evidence to establish that disclosure of the personal information in the emails sent by the students to the appellant is consistent with any conditions under which that personal information was provided, collected, or obtained. Likewise, I find that there is insufficient evidence that each of the students must have had a reasonable expectation that their personal information would be requested. It is, therefore, unnecessary to consider whether the other two conditions are met.

### ***Section 21(1)(f) exception: disclosure is not an unjustified invasion of personal privacy***

[69] Under section 21(1)(f), if disclosure of the personal information would not be an unjustified invasion of personal privacy, the personal information is not exempt from disclosure. Sections 21(2), (3) and (4) help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy. Sections 21(3)(a) to (h) should generally be considered first.[23] These sections outline several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy.

*Section 21(3): is disclosure presumed to be an unjustified invasion of personal privacy?*

21(3)(a): medical information

[70] If the personal information relate to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, the presumption at section 21(3)(a) applies.

[71] The college submits, and I find, that the presumption at section 21(3)(a) (medical information) applies to one of the emails (record 4) because it contains

[23] If any of the section 21(3) presumptions are found to apply, they cannot be rebutted by the factors in section 21(2) for the purposes of deciding whether the section 21(1) exemption has been established.

personal information relating to a student's medical history, diagnosis, condition, treatment or evaluation.

21(3)(d): employment or educational history

[72] This presumption covers several types of information connected to employment or education history. Information contained in resumes[24] and work histories[25] also falls within the scope of section 21(3)(d). A person's name and professional title alone do not constitute "employment history" and are not covered by the presumption.[26]

[73] The college submits, and I find, that as student emails to their professor (or former professor), the personal information at issue relates to the educational history of the respective students. As the emails reveal the fact of their being students at the college, during certain time periods and/or enrolled in certain courses, this personal information qualifies as part of their educational history.

[74] As a result, I find that section 21(3)(d) applies to all of the emails. I will not consider the factors outlined in section 21(2) because they cannot be used to rebut (disprove) a presumed unjustified invasion of personal privacy under section 21(3).[27] In other words, if disclosure of the personal information is presumed to be an unjustified invasion of personal privacy under section 21(3), section 21(2) cannot change this presumption.

[75] Since at least one of the section 21(3) presumptions applies, the personal information cannot be disclosed *unless* either section 21(4) or section 23 apply. In this appeal, neither of these sections do. Neither of the parties has identified how any of the situations listed in section 21(4) are relevant in the circumstances, and I see no basis for finding otherwise. Similarly, neither party has sufficiently addressed or established that there is a "compelling public interest override" within the meaning of section 23. Having reviewed all of the emails, I find them to be inherently private in nature, not inviting to the types of considerations that have been long considered by the IPC in finding the "public interest override" 23 to be relevant.

[76] For these reasons, I find that disclosing the personal information at issue is presumed to be an unjustified invasion of personal privacy. Accordingly, I uphold the college's decision to withhold it, as being exempt from disclosure under the mandatory personal privacy exemption at section 21(1) of the *Act*.

**Issue C: Did the institution conduct a reasonable search for records?**

[77] For the reasons that follow, I do not uphold the college's search for records as

[24] Orders M-7, M-319 and M-1084.
[25] Orders M-1084 and MO-1257.
[26] Order P-216.
[27] *John Doe*, cited above.

reasonable.

[78] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.[28] If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[79] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.[29]

[80] The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;[30] that is, records that are "reasonably related" to the request.[31]

[81] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.[32]

[82] The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[33] The institution *must provide a written explanation of all steps taken in response to the request*, including:

- whether the institution contacted the requester to clarify the request, and if so, the institution is asked to provide details including a summary of any further information the requester provided;

- if the institution did not contact the requester to clarify the request, whether it chose to respond literally to the request or chose to define the scope of the request unilaterally;[34]

- details of any searches the institution carried out including: who conducted the search, the places searched, who was contacted in the course of the search, the types of files searched, and the results of the search;

---

[28] Orders P-85, P-221 and PO-1954-I.
[29] Order MO-2246.
[30] Orders P-624 and PO-2559.
[31] Order PO-2554.
[32] Orders M-909, PO-2469 and PO-2592.
[33] Order MO-2185.
[34] And if so, the institution is to explain why the scope of the request was defined this way, when and how the institution informed the requester of this decision, and whether the institution explained to the requester why it was defining the scope of the request in a particular way.

- whether it is possible that responsive records existed but no longer exist, and if so, details related to this.[35]

[83] The IPC advises institutions that they should provide this information in an affidavit from the person or people who conducted the search.

### *The college's evidence*

[84] The college submits that there is a threshold hurdle that the appellant must pass (providing a reasonable basis for concluding that such records exist) before proceeding to assess the reasonableness of the college's search. The college's position is that the appellant has not set out a reasonable basis for concluding that additional responsive records exist in the custody or control of the college.

[85] The college asserts that it is satisfied that it met the statutory requirement to make a reasonable effort to identify and locate responsive records. It submits that its search was conducted by an experienced employee knowledgeable in the subject matter of the request, who made a reasonable effort to locate records that are reasonably related to the request.

[86] More specifically, the college explains that it's freedom of information coordinator (FOIC) relayed the request to the Director, Information Security & Infrastructure (the director). The college says that it made a "broad internal request for records relating to" three specified college emails, as well as any other variants of those emails. The college states that the director asked the FOIC a clarifying question and the FOIC's response was that the college should interpret the request broadly, using the phrase "the individual wants every piece of documentation related to the email addresses and their administration". The college says that the director continued to engage with the FOIC to satisfy the request, and engaged another resource (a senior information security analyst with the IT Security team) to assist with the response. This analyst is said to have had ongoing communications with the FOIC to conduct a fulsome search. The college attached emails to its representations, reflecting internal communications about responding to the request.

[87] The college provided internal emails showing the FOIC's communications in trying to locate responsive records, including the following excerpt from an email to the FOIC:

> After the account was suspended [the appellant] would no longer have access. However if someone sent emails to the account these would still be "received" by the account, and automatic replies may have been sent. Please confirm if this is also in scope?

[35] The institution is to provide details of when such records were destroyed including information about the institution's record maintenance policies and practices, such as retention schedules.

> If so, is there clarification on who this administrative assistant is? Otherwise there's no way to narrow down the search.

[88] The emails following this do not indicate that the above questions were clarified. The college's representations do not address this directly.

[89] The college states that its response to the appellant included disclosure of all types of emails that it discovered as part of the search.

[90] In addition, the college notes that it conducted a secondary search during mediation, with an expanded scope. Through the mediation process, the college clarified the scope of the records sought with the appellant and conducted a secondary search. It then issued a revised access decision, accompanied by an index of records, granting partial access to further responsive records. The college states that it disclosed all records to the appellant, withholding access only to limited to redacted portions of the records, in accordance with the *Act*. The college submits that it is worth repeating that this second search was conducted with the IPC mediator's involvement.

[91] The college submits that the *Act* does not require it to prove with certainty that further records do not exist, but rather to provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records.

### *The appellant's position*

[92] The appellant's position is that the college did not conduct a reasonable search. He notes that the college did not provide an affidavit.

[93] He also addresses issues related to the status of his email account since the termination of his employment at the college. He appears to see his request as one of continuing access (for emails from a specified date to the present, as opposed to the date of his request).

### *Analysis/findings*

[94] At the outset, I will address the college's view that there is a threshold hurdle that the appellant must pass in order to proceed with assessing the reasonableness of the college's search. In Order MO-4296, I addressed a similar argument made by an institution, and rejected it:

> While, as the city states, the *Act* does not require the institution to prove with certainty that further records do not exist, this fact does not persuade me to accept that the city does not have the initial burden of sufficiently explaining its search efforts.
>
> The *Act* obliges an institution to tell a requester that they may appeal to the Commissioner on the question of whether a record exists, when the

institution has claimed that no record exists.[36] In turn, if an appeal reaches adjudication,[37] the IPC requires that institutions provide sufficient evidence of their search efforts. In seeking this evidence, the IPC summarizes the long-standing jurisprudence on the issue of reasonable search, and the general questions that the institution should turn its mind to. It is well- established that the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records (that is, records that are "reasonably related" to the request). The IPC tells institutions this in the Notice of Inquiry, and that it will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.

Thus, in my view, by characterizing its task as having "to show that it has made a reasonable effort to identify and locate the responsive records *that the requester has provided a reasonable basis to assume may exist*" (emphasis mine), the city has unilaterally departed from both the evidentiary requirements of the Commissioner, and the long-standing definition of a reasonable search. For ease of reference, that definition is as follows:

> A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.

A requester would rarely, if ever, be in a position to provide such information about who and what was involved in a search before the institution did. An appellant's basis for believing additional records exist is assessed in light of an institution's evidence of the steps that it took to search for responsive records.

Since I began the inquiry by seeking representations from the city, there had been nothing before me at adjudication from the appellant yet, such that the city could reasonably and persuasively take the position that it did (that the appellant had provided no reasonable basis for believing that additional responsive records exist).

[95] The above analysis applies equally in this appeal, and I adopt it here.

---

[36] Section 22(1) of the *Act* says, in part: "Notice of refusal to give access to a record or part under section 19 shall set out, (a) where there is no such record, (i) that there is no such record, and (ii) that the person who made the request may appeal to the Commissioner the question of whether such a record exists."

[37] Many appeals do not reach adjudication, and are, in fact, screened out of processing at the IPC for lack of reasonable basis for believing the additional records exist.

[96] Based on my review of the college's evidence, I am not satisfied that it sufficiently establishes that the college conducted a reasonable search. While I find that the college engaged experienced employees knowledgeable in certain aspects of the request to conduct a search, in my view, its internal emails show that the college was not clear about the scope of the appellant's request (including the identity of the administrative assistant referenced in the request). As noted, such questions were not answered in the subsequent emails, and not directly addressed by the college in its representations. Therefore, there is insufficient evidence before me that the college clarified these basic matters and/or made attempts to clarify them with the appellant. In my view, it would have been reasonable in the circumstances for the college to clarify the identity of the administrative assistant and any other unclear terms with the appellant. Therefore, I will order the college to conduct a further search for records responsive to the request (as worded above).

[97] It bears noting that the scope of the search should be limited to the request as it is set out above, as this brings me to a major point in the appellant's representations: they appear to reflect a view that the request was one for continuing access to emails received on his college email account. However, two important points need to be made about this.

[98] First, I do not accept that the issue of continuing access is properly before me at adjudication. It was not listed as an issue to be decided at adjudication in the Mediator's Report that the parties had an opportunity to object to. The timeframe noted in the request is "from [a specified date] to present." I find that this means the specified date to the date of the request. I acknowledge that the Mediator's Report indicates that the appellant flagged the fact that the college only provided records to the date specified in the request and that he was seeking records to the present time (which was during mediation) – and that the college searched again, and provided him with additional records post-dating his termination. However, none of this changes the wording of the request, which is what I am assessing the college's search efforts on in this appeal. To simply interpret the words "to present" as meaning a request for ongoing access, in the circumstances, would be to challenge the reasonableness of the college's search on the basis of an expanded scope, without the requisite fee assessments to the appellant.

[99] Second, and in any event, if the issue of continuing access were before me, it could not be a basis for challenging the reasonableness of the college's search in the circumstances. The IPC has long held that the sections of the *Act* addressing continuing access[38] are intended by the Legislature to apply to the kind of record that is likely to be produced and/or issued in a series (such as the results of public opinion polls), not ongoing access to the kind of record of which only one edition is produced (even if the content is different, but the records are of the same type).[39] Here, the appellant seeks

[38] Sections 24(3) and (4) of the *Act*.
[39] See Order PO-2730, citing Orders 164, P-1099, and PO-1681.

emails sent to his email account at the college, including emails sent after his termination date. It is not reasonable to accept, and there is insufficient evidence to establish, that any such emails would be the types of records produced or issued in a series.

[100] In conclusion, I find that the college did not sufficiently demonstrate that its search efforts were reasonable in the circumstances, and I will order the college to conduct a further search for responsive records.

**Issue D: Should the IPC uphold the institution's fee estimate?**

[101] Institutions are required to charge fees for requests for information under the *Act*. Section 57 governs fees charged by institutions to process requests. The college submits that it appropriately applied the fee and fee estimate provisions under the *Act*. The college states that later on in responding to the appellant's request, it issued a fee estimate of $860 for the remaining records (generic mailing lists, internal communication, internal system messages, sales, spam, and virus/malware). For the following reasons, I uphold the college's fee estimate, in part.

***Fee estimates and deposits***

[102] Under section 57(3), an institution must provide a fee estimate where the fee is more than $25. The purpose of the fee estimate is to give the requester enough information to make an informed decision on whether or not to pay the fee and pursue access.[40] The fee estimate also helps requesters decide whether to narrow the scope of a request to reduce the fee.[41]

[103] The institution can require the requester to pay the fee before giving them access to the record.[42] If the estimate is $100 or more, the institution may require the person to pay a deposit of 50 per cent of the estimate before it takes steps to process the request.[43]

[104] Where the fee is $100 or more, the fee estimate can be based on either:

- the actual work done by the institution to respond to the request; or
- a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.[44]

[105] In all cases, the institution must include:

---

[40] Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699.
[41] Order MO-1520-I.
[42] Regulation 460, section 9.
[43] Regulation 460, section 7(1).
[44] Order MO-1699.

- a detailed breakdown of the fee; and
- a detailed statement as to how the fee was calculated.[45]

[106] The IPC can review an institution's fee and can decide whether it complies with the *Act* and regulations.

### *What items can the institution charge for?*

[107] Section 57(1) sets out the items for which an institution is required to charge a fee:

> A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,
>
> (a) the costs of every hour of manual search required to locate a record;
>
> (b) the costs of preparing the record for disclosure;
>
> (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
>
> (d) shipping costs; and
>
> (e) any other costs incurred in responding to a request for access to a record.

[108] More specific fee provisions are found in sections 6 and 6.1 of Regulation 460. Section 6 applies to general access requests, while section 6.1 applies to requests for one's own personal information. Given my finding that the records do not contain the appellant's personal information, I will consider section 6, which says, in part:

> 6. The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record:
>
> 1. For photocopies and computer printouts, 20 cents per page.
>
> 2. For records provided on CD-ROMs, $10 for each CD- ROM.
>
> 3. For manually searching a record, $7.50 for each 15 minutes spent by any person.
>
> 4. For preparing a record for disclosure, including severing a part of the record, $7.50 for each 15 minutes spent by any person[.]

[45] Orders P-81 and MO-1614.

### ***How did the institution calculate the fee?***

*Breakdown of the fee estimate*

[109] The breakdown of the $860 fee estimate is:

- $60.00 for search time based on 2 hours @ $7.50 per quarter hour;
- $45.00 for preparation time based on 1.5 hours @ $7.50 per quarter hour;
- $60.00 for records preparation based on 2 hours @ $7.50 per quarter hour;
- $660.00 for photocopying based on 3300 pages @ $0.20 cents per page;
- $35.00 to send the package by courier.

*Basis of fee*

[110] The college states that its second search was complicated because the email addresses to which the responsive records related were suspended. The college states that the fee estimate is based on time spent by the FOIC in searching for and preparing the records, part of which was with IT support, as explained further below.

*Search time – section 57(1)(a)*

[111] Under section 57(1)(a) and the regulation, search time for manually searching a record can only be charged for general requests, not requests for the requester's own personal information.[46]

[112] The college states that the $60 for search time is based on 2 hours spent by the FOIC to implement and administer the search for records associated with a deactivated email address. The college submits, and I find, that it is entitled to charge for manually searching for the records at issue under section 57(1)(a). Therefore, I uphold its $60 fee for manual search time.

*Preparation for disclosure – section 57(1)(b)*

[113] Under section 57(1)(b) and the regulation, time spent preparing a record for disclosure can only be charged for general requests, not requests for the requester's own personal information.[47]

[114] An institution can charge for time spent severing (redacting) a record, including

[46] Regulation 460, sections 6 and 6.1.
[47] Regulation 460, sections 6 and 6.1.

records in audio or visual format,[48] and running reports from a computer system.[49]

[115] The IPC has generally accepted that it takes two minutes to sever a page that requires multiple severances.[50]

[116] The $45 for preparation time based on 1.5 hours of time was based on the FOIC's preparation of the records. The $60 for records preparation based on 2 hours was based on the IT support the FOIC required to obtain access to records associated with a deactivated email address. The college submits, and I find, that it was entitled to charge fees to prepare the records, under section 57(1)(b). Therefore, I uphold the college's total of $105 in preparation time fees.

*Computer and other costs incurred in locating, retrieving, processing and copying a record – section 57(1)(c)*

[117] In responding to general requests,[51] an institution can charge fees for:

- photocopies and computer printouts;[52]
- records provided on CD-ROMs;[53] and
- developing a computer program.[54]

[118] An institution cannot include costs for a computer to compile and print information.[55]

[119] The college states that the photocopying charge "reflects the responsive records identified by the college, including Generic Mailing Lists, Internal Communications, Internal System Messages, LinkedIn Messages, Miscellaneous Emails, Sales Emails, Spam, Student Emails, and Virus / Malware Emails."

[120] However, it is worth noting that the Notice of Inquiry sent to the college asked: "Are photocopies, CD-ROMs and/or computer printouts *required*? If so, how many? Please explain" [emphasis mine]. In my view, the college has not established that photocopies are "required," especially given the electronic nature of the records described by the college in its brief representations. It is not clear to me why the college is required to photocopy these records, instead of providing them on a CD-ROM.

---

[48] Order P-4.
[49] Order M-1083.
[50] Orders MO-1169, PO-1721, PO-1834 and PO-1990.
[51] An institution can also charge these fees in responding to requests for a requester's own personal information.
[52] Section 57(1)(c) and Regulation 460, sections 6(1) and 6.1(1).
[53] Section 57(1)(c) and Regulation 460, sections 6(2) and 6.1(2).
[54] Section 57(1)(c) and Regulation 460, sections 6(5) and (6), and sections 6.1(3) and (4).
[55] Order M-1083.

Furthermore, the appellant has not requested these electronic records to be provided on paper.

[121] In Order MO-3727, the appellant objected to the high photocopying charge, given the electronic nature of the records at issue. The adjudicator in that appeal considered whether the institution had provided evidence that this was necessary, and said:

> In Order MO-3523, relying on the findings in Orders MO-2530 and MO-3133-F, I found that the scanning of records to put them on a CD and provide them to a requester electronically is only necessary for records in paper format or for those that need to be photocopied to be severed, not those already in electronic format . . . . [The institution] has not provided evidence that records already in electronic format that do not require severing cannot be directly transferred to a CD without the necessity of printing and copying them first.

[122] I agree with this analysis, and adopt it here.

[123] All of the records described by the college in its brief representations are electronic. While they vary in other ways, I find that the college has not provided sufficient evidence that records already in electronic format that do not require severing cannot be directly transferred to a CD without the necessity of printing and copying them first. Furthermore, although "student emails" would reasonably be expected to require severing (as the emails at issue in this appeal did), it is not clear from the college's brief representations how many student emails (and other records, if any), would require severing.

[124] In the circumstances, I do not uphold the $660 charge as reasonably established by the college.

[125] However, I allow the college to charge $10 for transfer to a CD-ROM of any records that do not require printing and severing first.

*Shipping costs – section 57(1)(d)*

[126] Section 57(1)(d) provides for the inclusion of shipping costs in the institution's fee.[56] The college submits that it could charge $35 for the courier costs, and in accordance with section 57(1)(d), I uphold that fee.

### ***Conclusion: fee estimate reduced***

[127] For these reasons, I uphold the college's fee estimate, in part, and reduce the

[56] The IPC has found that section 57(1)(d) *does not include* the cost of correspondence to notify affected parties or to discharge other general responsibilities under the *Act* (see Order MO-2274).

fee estimate from $860 to $210, as follows: $60 (manual search) + $105 (preparation time) + $10 (CD-ROM) + $35 (courier) = $210 (total).

**Issue E: Should the institution waive its fee?**

[128] The fee provisions in the *Act* establish a "user-pay" principle. The fees referred to in section 57(1) and outlined in sections 6 and 6.1 of Regulation 460 are mandatory unless the requester can show that they should be waived.[57]

[129] The *Act* requires an institution to waive fees, in whole or in part, if it is fair and equitable to do so. Section 57(4) of the *Act* and section 8 of Regulation 460 set out matters the institution must consider in deciding whether to waive a fee.[58]

***What steps must a requester take to request a fee waiver?***

[130] A requester must first ask the institution for a fee waiver, and provide detailed information to support the request. If the institution either denies this request, or chooses to waive only a portion of the fee, the IPC may review the institution's decision, and can uphold or modify the institution's decision.[59]

[131] Here, the appellant requested a fee waiver, which the college denied.

***What factors must be considered when deciding whether it would be "fair and equitable" to waive a fee?***

[132] A fee must be waived, in whole or in part, if it would be "fair and equitable" to do so in the circumstances.[60]

[133] Factors that must be considered in deciding whether it would be fair and equitable to waive the fee include:

---

[57] Order PO-2726.

[58] Those provisions state:

> 57(4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,
>
> (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
>
> (b) whether the payment will cause a financial hardship for the person requesting the record;
>
> (c) whether dissemination of the record will benefit public health or safety; and
>
> (d) any other matter prescribed by the regulations.
>
> 8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:
>
> 1. Whether the person requesting access to the record is given access to it.
>
> 2. If the amount of a payment would be $5 or less, whether the amount of the payment is too small to justify requiring payment.

[59] Section 57(5), Orders M-914, MO-1243, P-474, P-1393 and PO-1953-F.

[60] See *Mann v. Ontario (Ministry of Environment)*, 2017 ONSC 1056.

- Section 57(4)(a) - actual cost in comparison to the fee. If the actual cost to the institution in processing the request is higher than the fee charged to the requester, this may be a factor weighing against waiving the fee.[61]

- Section 57(4)(b) - financial hardship. For this factor to apply, the requester must provide evidence regarding their financial situation, including information about income, expenses, assets and liabilities.[62] The fact that the fee is large does not necessarily mean that payment of the fee will cause financial hardship.[63]

- Section 57(4)(c) - public health or safety. The focus of this is "public health or safety." It is not enough to show that there is a "public interest" in the records – the public interest must relate to gaining information about a public health and safety issue.[64]

- Section 57(4)(d) and section 8 of Regulation 460 – whether the institution gave the requester access to the record.

- Other relevant factors, which may include: the manner in which the institution responded to the request, whether the institution worked constructively with the requester to narrow and/or clarify the request, whether the waiver of the fee would shift an unreasonable burden of the cost from the requester to the institution.[65]

[134] The college submits that the appellant has not provided the college with sufficient detailed information to establish that it would be "fair and equitable" to waive the fee.

[135] The college notes that the search for responsive records associated with the deactivated email was an onerous undertaking. I find that this is a factor that weighs against waiving the fee estimate.

---

[61] Order PO-3755. See also Order PO-2514.
[62] Orders M-914, P-591, P-700, P-1142, P-1365 and P-1393.
[63] Order P-1402.
[64] Orders MO-1336, MO-2071, PO-2592 and PO-2726. The following factors may be relevant in determining whether distribution of a record will benefit public health or safety:
- whether the subject matter of the record is a matter of public rather than private interest,
- whether the subject matter of the record relates directly to a public health or safety issue,
- whether distribution of the record once disclosed would yield a public benefit:
    a. by disclosing a public health or safety concern, or
    b. by contributing meaningfully to the development of understanding of an important public health or safety issue, and
- the probability that the requester will share the contents of the record with others (see Orders P-2, P-474, PO-1953-F and PO-1962).

[65] Other factors commonly considered include: whether the request involves a large number of records, whether the requester has offered a compromise that would reduce costs, whether the institution provided any records to the requester free of charge. See Orders M-166, M-408 and PO-1953-F.

[136] The appellant did not provide representations about the issue of fee waiver, when given the opportunity to review the college's representations. This weighs against finding that it would be fair and equitable to waive the fee estimate. There is, for example, no detailed evidence about whether not waiving the $260 fee estimate (or the original $860 fee estimate) would be the cause of financial hardship to him, in light of detailed evidence about his financial situation, including information about income, expenses, assets and liabilities.

[137] In addition to this limited evidence, I have considered the manner in which the college responded to the request. As noted, it ought to have clarified any unclear aspects of the request with the appellant, but its clarification efforts were only internal. This has some weight in favour of a fee waiver.

[138] I have also considered the user-pay principle, which weighs significantly against a fee waiver. In the circumstances, based on the evidence before me, and balancing factors for and against waiving the fee, I find that, on balance, there is insufficient evidence for me to conclude that a fee waiver is fair and equitable in the circumstances. The factors against waiving the fee estimate outweigh the limited weight I am prepared to give to the college's initial manner of processing the request. Therefore, I uphold the college's decision to deny a fee waiver, and dismiss the appeal.

## ORDER:

1. I dismiss the appellant's allegation of bias, or reasonable apprehension of bias.

2. I uphold the college's access decision, and dismiss those issues in the appeal.

3. I do not uphold the college's search as reasonable. I order the college to conduct a further search, treating the date of this order as the date of the request for the purposes of the procedural requirements of the *Act*. The college is not permitted to rely on the time extension provision in section 27 of the *Act*. I order the college to provide the IPC and the appellant with an affidavit containing details about this ordered search, within 30 days of the date of this order. At a minimum, the affidavit(s) should include the following:

    a. The name(s) and position(s) of the individual(s) who conducted the search(es) and their knowledge and understanding of the subject matter and the scope of the request;

    b. The date(s) the search(es) took place and the steps taken in conducting the search(es), including information about the type of files searched, the nature and location of the search(es), and the steps taken in conducting the search(es);

c. Whether it is possible that responsive records existed but no longer exist. If so, the college must provide details of when such records were destroyed, including information about record maintenance policies and practices, such as evidence of retention schedules; and

d. If it appears that no further responsive records exist after further searches, a reasonable explanation for why further records do not exist.

4. If the college locates additional records as a result of its further search(es), or if it does not locate such records, I order it to issue an access decision to the appellant, in accordance with the requirements of the *Act*, treating the date of this interim order as the date of the request for the purpose of the procedural requirements of the *Act.*

5. I reduce the college's fee estimate to $210, and I uphold the college's decision to deny a fee waiver, and I dismiss those issues in the appeal.

6. I remain seized of this appeal to deal with issues arising from order provisions 3 and 4.

7. In order to verify compliance with this order, I reserve the right to require the college to provide me with a copy of the access decision referred to in order provision 4, as well as any records disclosed with this access decision.

Original Signed By: February 8, 2023

Marian Sami
Adjudicator