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## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### FOIP PRACTICE NOTE 9

#### Authorization to Disregard Request under section 55

Section 55 of the *Freedom of Information and Protection of Privacy Act* (“the FOIP Act”) gives the Commissioner the power to authorize a public body to disregard certain requests. Section 55 reads:

*55 If the head of a public body asks, the Commissioner may authorize the public body to disregard one or more requests under section 7(1) or 36(1) if*

- (a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests, or*
- (b) one or more of the requests are frivolous or vexatious.*

The following outlines the Commissioner’s general practice when considering a public body’s request under section 55 to disregard an applicant’s access request or request to correct personal information:

1. The public body provides the Commissioner with a written request regarding how the requirements of either section 55(a) or (b) of the FOIP Act are met and the relevant circumstances.
2. The Commissioner’s Office will provide the applicant with a copy of the public body’s request and provide the applicant an opportunity to make a written representation to the Commissioner.
3. Upon receipt of the applicant’s representation, the Commissioner’s Office will send a copy to the public body.

4. There will be no further opportunity for the public body or the applicant to supply additional information unless the Commissioner has specific issues that he wishes answered.
5. The Commissioner renders a decision as to whether or not to authorize the public body to disregard the applicant's access request or request to correct personal information.

The Commissioner's decision under section 55 may result in an applicant losing a right under the FOIP Act. Procedural fairness requires that the applicant be provided an opportunity to make representation to the Commissioner. This is the basis for providing the public body's request to the applicant and providing the applicant with the opportunity to make representation.

If the public body or the applicant do not want the Commissioner's Office to exchange their information, they must make that request to the Commissioner. If the Commissioner disagrees, he will return the information so that the public body or the applicant can submit other information for exchange.

(Practice Notes are prepared by the Office of the Information and Privacy Commissioner to assist persons in using the Act. They do not constitute orders under the Act. They are not binding. They are intended as advice only.)