



**OFFICE OF THE
INFORMATION and PRIVACY COMMISSIONER
for Prince Edward Island**

Decision No.	D-26-004
OIPC File No.	C/25/00277
Public Body	Public Schools Branch
Statute and Sections Considered	<i>Freedom of Information and Protection of Privacy Act</i> Sections: 61 [time to ask for a review]
Decision-Maker	Denise N. Doiron Information and Privacy Commissioner
Date of Decision	February 23, 2026

Summary:

An Applicant requested access to records and received a decision from the Public Body. The Applicant did not request a review of the Public Body's decision within 60 days, the limitation period set out in the *Freedom of Information and Protection of Privacy Act*. The Applicant asked the Commissioner to extend their time to request a review. The Commissioner found that the Applicant was aware of the statutory time limit for requesting a review and did not provide a compelling reason for not having complied with it. Commissioner declined to extend the Applicant's time to request a review in the circumstances.

Issue:

- [1] The Applicant is seeking a review of the Public Body's decision to withhold information from a responsive record. As the 60-day limitation period set out in the *Freedom of Information and Protection of Privacy Act* ("FOIPP Act") has passed, I must consider whether to grant an extension to request a review.

Background:

- [2] The Applicant initially contacted our office in July 2025, asserting that the Public Body had not responded to their access request, and asked for a review of the Public Body's

deemed refusal of their access request. Deputy Commissioner Maria MacDonald initially reviewed this complaint, and I reviewed emails and notes she made to the file.

- [3] At that time, we made inquiries with the Public Body and discovered the Applicant had only verbally requested records from the Public Body, not made an access request in writing as required by section 7 of the *FOIPP Act*. The Public Body agreed to accept the Applicant's email to us as an access request made under the *FOIPP Act* and process it accordingly. The Applicant later advised us that the Public Body had confirmed with them that the Public Body was processing their access request.
- [4] At the end of August 2025, Deputy Commissioner MacDonald contacted the Applicant to see if they had received a response from the Public Body. The Applicant responded that they had not yet received a response but gave no further information.
- [5] Deputy Commissioner MacDonald asked the Public Body for an update. The Public Body advised that they had extended their response time as they needed to conduct a third-party consultation before making a decision on access, had notified the Applicant a couple of weeks earlier that they were extending the response time, and had provided the Applicant with a date to expect a response.
- [6] When Deputy Commissioner MacDonald advised the Applicant that the Public Body said they had extended their response time and notified the Applicant, the Applicant acknowledged they had received the Public Body's extension notification and the date they could expect a response.
- [7] When the Applicant received the Public Body's decision in mid-September, they called our office. The Applicant stated there was information redacted from the records the Public Body gave them and asked if they could request a review of the redactions. The Applicant also advised that they believed they may already have a copy of the records, which they had received through a different process.
- [8] Deputy Commissioner MacDonald verbally explained to the Applicant that they could request a review, but the Commissioner would have to decide whether a review was warranted. The Deputy Commissioner told the Applicant that if they already had a copy of the records, she expected this would be a relevant consideration about whether a review was warranted. Deputy Commissioner MacDonald also verbally explained that the *FOIPP Act* gives an applicant 60 days from the date of receiving a public body's decision to ask for a review, and that a request for review had to be in writing. She advised the Applicant

that, if they were requesting a review, they should include a copy of the Public Body's decision and the record they wanted reviewed.

- [9] Deputy Commissioner MacDonald advised the Applicant that we would be closing our file because the original issue of deemed refusal was considered resolved once the Public Body had given them a decision. She explained that if the Applicant requested a review of the Public Body's decision, that would be a different issue, and we would open a new file for that. The Applicant stated they planned to ask for a review that day.
- [10] We then closed our file and notified the Public Body of the file closure. The Applicant did not request a review within 60 days. We had no further contact from the Applicant until December 2025.
- [11] In early December 2025, approximately three months after receiving the Public Body's decision, the Applicant called our office looking for an update on the progress of their review and again spoke with Deputy Commissioner MacDonald. She advised the Applicant that their file on deemed refusal had been closed in September 2025.
- [12] After speaking with the Applicant by phone, Deputy Commissioner MacDonald checked her notes and followed up with the Applicant by email, reminding the Applicant about their discussion from September 2025, including that she had explained then that the Applicant had 60 days to ask for a review. She also reminded the Applicant she had advised them during the conversation that we were closing our file and would open a new one only if the Applicant requested a review of the redactions and provided us with the Public Body's decision and records, and the Applicant had indicated their intention to do so. Deputy Commissioner MacDonald indicated she had checked both her own and our general office email accounts and confirmed the Applicant had not asked for a review of the Public Body's decision.
- [13] Deputy Commissioner MacDonald told the Applicant they were outside the 60-day time limit to make their request for review, but that there was an opportunity for them to ask the Commissioner to extend their time to request a review. Deputy Commissioner MacDonald also explained that if the Applicant chose to do this, they would have to make the request in writing and give their reasons for not having asked for a review within the 60-day limitation period.
- [14] The Applicant responded to Deputy Commissioner MacDonald's email stating that they had been placed on administrative leave from their employment in September and "as I

am sure you can appreciate, this has been an extremely taxing, stressful, and overwhelming period. I was confused in the information on process, as a result.”

[15] Deputy Commissioner MacDonald indicated she would provide the Applicant’s email to me, and requested the Applicant write to me by a specified date, to our general office email account, either to confirm if what they had provided was their position and invited the Applicant to provide more information to support their request for extension to ask for a review.

[16] A few days later, the Applicant emailed our office, apologized for “misunderstanding the directions provided for next steps in the process”, and asked for “your consideration of an extension in review of the information and decisions at this time.” The Applicant did not provide any information or explanation in this email about why they had not requested a review sooner.

Analysis:

[17] The *FOIPP Act* requires that if an applicant wants to ask the Commissioner to review a decision of a public body on access to information, the applicant must deliver the request for review to the Commissioner within 60 days after the applicant is notified of the decision [clause 61(2)(a)(i)].

[18] The *FOIPP Act* permits the Commissioner to allow a longer period for an applicant to ask for a review, at the Commissioner’s discretion [clause 61(2)(a)(ii)]. However, there are no specific criteria for allowing an extension of time for requesting a review.

[19] A decision to extend the time must be based on reasonableness. I must also take into consideration procedural fairness to both public bodies and applicants, as the intent of the legislation is not only to provide applicants with a right to request a review but also to provide some degree of finality or closure around requests for access to information. Therefore, I must be persuaded that it is reasonable in the circumstances of the matter to allow an applicant to request a review beyond the statutorily required time period.

[20] I did not ask the Public Body for their position on the Applicant’s request for extension, but I do not require it. Based on the information provided by the Applicant, I am not persuaded that allowing the Applicant to make a request for review beyond the 60 days set out in section 61 of the *FOIPP Act* is reasonable in the circumstances.

- [21] I appreciate that the Applicant might have been experiencing stress in their life at the time they received the Public Body's decision, but this in and of itself is not sufficient reason for overriding the 60-day time limit. The Applicant has not provided any compelling reason for why they were unable to make their request for review within the statutory time limits set out in the *FOIPP Act*.
- [22] While the Applicant indicated they "misunderstood" the process as an explanation for not meeting the deadline, Deputy Commissioner MacDonald provided clear information on the process at the time the Applicant received the Public Body's decision, including the statutory timeline for requesting a review, that the request must be in writing, and that the Applicant should provide us with the Public Body's decision and a copy of the records with the redactions they wanted us to review. The Applicant did not express any issues with understanding what was required, and advised they were going to make their request for review that same day.
- [23] The Applicant did not make their request for review that day, or any time within the following 60 days, nor did they contact our office for clarification on the process during that time. The Applicant did not contact our office again until after the 60-day time limit had expired, to ask about the status of their review.
- [24] Although I can empathize with the Applicant's expressed stress, I am not persuaded, on a balance of probabilities, that the Applicant did not understand that there was a limitation period for requesting a review, or that it was 60 days from the date of having received the Public Body's decision letter.
- [25] Public bodies are required to notify applicants that they may ask for a review of a decision to refuse access to information in a record [clause 10(1)(c)(iii) of the *FOIPP Act*]. We have observed that this Public Body's decision letters typically have standard language appearing in all their decisions, which states "You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner...". We do not have a copy of the Public Body's decision letter to the Applicant, but we have no reason to believe their decision letter to the Applicant did not include this statement.
- [26] In her phone call with the Applicant shortly after the Applicant called our office to advise they had received the Public Body's decision, Deputy Commissioner MacDonald told the Applicant that there was a 60-day limitation period for requesting a review.
- [27] This Applicant is not an unsophisticated applicant. Based on information the Applicant gave us, we are aware that the Applicant has a post-secondary level of education, and at

no time did they express any difficulty in understanding that there was a limitation period or what it was. Rather, after speaking with Deputy Commissioner MacDonald, they indicated they would be making their request for review that same day, which shows they understood that there was a deadline.

[28] The Applicant has provided no other information or explanation about why they did not meet the statutory deadline.

[29] Even if I were to accept that the Applicant did not understand that there was a 60-day time limit for requesting a review, in my opinion a review would not be warranted in any event. The Applicant commented, when they received the Public Body's decision, that they believed they may have already gotten the information through another process. If the Applicant already has the information the Public Body withheld, conducting a review of the Public Body's redactions under the *FOIPP Act* would be moot.

[30] Our office has a large number of files awaiting adjudication, a significant backlog, and limited resources. We must be judicious in our use of those limited resources given the workload, and I do not consider it a reasonable use of resources to review a Public Body's decision on information an applicant may have already received through other processes.

[31] I find that the Applicant has not provided a compelling reason for why they did not meet the 60-day time limit set out in the *FOIPP Act* for requesting a review or why their time to request a review should be extended, and that it would not be fair to the Public Body to extend the Applicant's time for requesting a review beyond the statutory time limit. Further, in my opinion, a review of the Public Body's decision would be moot because the Applicant says they believe they may already have the information, and extending their time to request a review would not be of any purpose and would consume resources that could be better utilized elsewhere.

[32] For these reasons, I find that extending the Applicant's time to request a review beyond the 60 days set out in the *FOIPP Act* would not be reasonable in the circumstances.

Decision:

[33] Section 61(2)(a)(ii) of the *FOIPP Act* gives the Commissioner the authority to extend the time for an applicant to request a review for longer than 60 days from the date of notification of the Public Body's decision. I am not persuaded that an extension of the Applicant's time to request a review is warranted in this matter.

[34] For the reasons outlined above, I decline to allow the Applicant longer than the 60 days set out in clause 62(2)(a)(ii) of the *FOIPP Act* to request a review.



Denise N. Doiron
Information and Privacy Commissioner