



Order F26-69

Board of Education of School District 68 (Nanaimo-Ladysmith)

Carol Pakkala
Adjudicator

July 30, 2026

CanLII Cite: 2026 BCIPC 87

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Summary: The Board of Education of School District 68 (District) responded to portions of a multi-part access request but applied for authorization to disregard the remaining parts under s. 43 of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The District applied saying the request is frivolous and vexatious, extremely broad, and that responding would unreasonably interfere with its operations. The adjudicator found that the entire access request was vexatious and authorized the District to disregard the outstanding parts. The adjudicator also found that some future relief was warranted.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 43(a) and 43(d)(ii).

INTRODUCTION

[1] This inquiry decides an application made by the Board of Education of School District 68 (District) for authorization under s. 43 of the *Freedom of Information and Protection of Privacy Act* (FIPPA)¹ to disregard an access request made by an individual (respondent).

[2] The access request is a multi-part request with 15 distinct numbered paragraphs but with additional requests in unnumbered paragraphs such that it contains 19 parts. The District responded to approximately one third of the request and now applies under s. 43 for authorization to disregard the remaining parts.

[3] The District's application says the access request is frivolous and vexatious, an abuse of process, extremely broad, and that responding would unreasonably interfere with its operations.

¹ From this point forward, unless otherwise specified, where I refer to section numbers, I am referring to sections of FIPPA.

[4] Prior to the due date for submissions in this inquiry, s. 43 was amended by the Legislature.² In the notice for this inquiry, the parties were advised that the amendments to s. 43 apply to requests received before, on, or after the date the amendments come into force (i.e. May 28, 2026). The parties therefore had the opportunity to include their comments, if any, about the impact of the s. 43 amendments in their inquiry submissions.³

[5] Both parties provided written inquiry submissions.

Preliminary Matters

Effect of the District responding to parts of the access request

[6] The District's submission addresses the nature of the access request in its entirety. The request is however a multi-part request, and the District did respond to some parts. Despite having responded to those parts, I understand the District's position to be about the request in its entirety. As I cannot authorize it to disregard the parts to which it is already responded, I considered whether I have the authority to authorize it to disregard the remaining parts.

[7] Section 43 allows a public body to apply to the OIPC for authorization to disregard "a request". Past orders have considered multi-part requests and whether a public body is entitled to relief under s. 43 where it has already responded to parts of a request.⁴

[8] After engaging in a statutory interpretation analysis of "request" in s. 43, the adjudicator in Order F26-35 concluded that interpreting "a request" to mean only a full access request, would undermine the remedial purpose of s. 43 and improperly restrict the Commissioner's ability to curb abuse of FIPPA.⁵

[9] I agree with, and adopt, the analysis in Order F26-35. In my view, public bodies should not be discouraged from disclosing any records solely to preserve the right to apply for relief under s. 43. To the contrary, answering parts of a multi-part request represents an attempt to fulfill, not avoid, obligations under FIPPA.

² Bill 9 – *Freedom of Information and Protection of Privacy Amendment Act, 2026* [Bill 9] at ss. 12, 27, and 28. Available here: https://www.leg.bc.ca/parliamentary-business/overview/43rd-parliament/2nd-session/bills/3rd_read/gov09-3.htm.

³ OIPC's Registrar of Inquiries Notice of Request for – Application to Disregard (s. 43) dated June 3, 2026.

⁴ See for example: Order F26-35, 2026 BCIPC 45 (CanLII) and F24-39, 2024 BCIPC 47 (CanLII).

⁵ Order F26-35, 2026 BCIPC 45 (CanLII) at para 21.

[10] For the above reasons, I will consider whether the District is entitled to relief under s. 43 for those portions of the access request to which it has not responded.

[11] The District's submissions address the access request as a whole rather than only the unanswered parts. For readability purposes, I do the same below.

Amendments to s. 43

[12] For clarity, prior to the amendments to s. 43, the subsections I understand the District relied upon in making this application are as follows:

43 If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 5 or 29, including because

(a) the request is frivolous or vexatious,

...

(c) responding to the request would unreasonably interfere with the operations of the public body because the request

(i) is excessively broad, or

...

[13] As noted above, while the inquiry was ongoing s. 43 was amended by the Legislature as follows:⁶

Section 43 is amended

(a) by adding the following paragraph:

(a.1) the behaviour of the applicant is abusive or malicious, and

(b) by striking out "or" at the end of paragraph (b) and by repealing paragraph (c) and substituting the following:

(c) responding to the request would unreasonably interfere with the operations of

(i) the public body, or

(ii) the ministry of the minister responsible for this Act, or

(d) the request is

(i) an abuse of the right to make a request under section 5 or 29 because the request is repetitious or systematic, or

(ii) excessively broad.

⁶ See Bill 9, *supra* note 2 at s.12.

[14] The amendments to s. 43 could potentially impact the outcome of this inquiry because excessively broad and unreasonable interference with operations are no longer tied together.

[15] The amendments came into force on May 28, 2026, and expressly apply to access requests received by public bodies prior to that date.⁷ For this reason, I will use the wording and subsection numbers set out in the amendments for the remainder of this order.

Respondent's materials for this application

[16] In this inquiry, the respondent initially submitted more than 100 documents for consideration. The OIPC's Registrar of Inquiries (Registrar) asked that the respondent organize these documents and she declined. The Registrar then asked the respondent to provide a list of documents for the adjudicator to decide whether they needed to see them to decide this s. 43 application.

[17] The respondent provided a table of contents for 963 pages of documents. The table of contents provides a short description of each of the documents. The table of contents also includes an additional section marked "in progress" which I understand to mean additional pages, beyond the 963 pages, that she intended to add to the table of contents.

[18] After reviewing the table of contents, I am satisfied that all of the listed documents relate to the respondent's underlying dispute with the District about the termination of her employment for cause. That dispute is outside of my jurisdiction. I see no documents described in the table of contents that are relevant to the s. 43 analysis. For that reason, I did not request or review any of those documents.

[19] After the submissions phase in this inquiry closed, the respondent emailed a further reply to the Registrar. The Registrar advised her the submissions phase was closed and that her additional submission would not be considered. After a cursory review for relevance, I saw no reason to depart from the Registrar's decision.

BACKGROUND

[20] The respondent worked for the District as a school counsellor from April 28, 2022 to September 12, 2023.⁸ The District terminated the respondent's employment for cause. The respondent's union initially grieved the dismissal on

⁷ Bill 9, *ibid* at ss. 27 and 28.

⁸ The respondent disputes this date, but the District's evidence includes a termination letter, and I accept this evidence establishes the noted employment end date.

her behalf but later informed the District it would not pursue the grievance any further.

[21] The respondent filed a civil action related to her loss of employment and for a multitude of other allegations, including defamation.⁹ In that action, the respondent named a total of 34 organizations and individuals, including the District, some of its employees, and the union. The respondent also named 10 third parties.

[22] The District (and others) applied to strike and dismiss the respondent's notice of claim against it and its individual employees. On October 30, 2025, Justice Young dismissed the respondent's claim. He found the respondent's pleadings vexatious and an abuse of process.

[23] The respondent made the access request at issue in this inquiry after the civil claims were dismissed.

ISSUES AND BURDEN OF PROOF

[24] The issues I must decide in this inquiry are as follows:

1. Is the respondent's request¹⁰ frivolous or vexatious under s. 43(a)?
2. Would responding to the respondent's request unreasonably interfere with the operations of the District under s. 43(c)(i)?
3. Is the request "excessively broad" under s. 43(d)(ii)?
4. If the answer to either 1, 2 or 3 above is yes, what remedy, if any, is appropriate?

[25] As the party applying for relief under s. 43, the District bears the burden of proving that it applies.¹¹

DISCUSSION

Access request

[26] On April 13, 2026, the respondent made an access request to the District that read:

⁹ *Carruthers v. Comox Valley School District No. 71 et. Al.*, 2025 BCSC 2137 (CanLII).

¹⁰ As noted above, while I am considering those parts of the request to which the District has not responded, I use "request" for readability purposes.

¹¹ Order F18-09, 2018 BCIPC 11 (CanLII) at para 2; Order F17-18, 2017 BCIPC 19 at para 4; and Auth. (s. 43) 02-02, [2002] BCIPCD No. 57 available at <https://www.oipc.bc.ca/documents/decisions/160>.

I am requesting my employee file, documents that came from other districts to [N]anaimo district, my reference check information, any notes from parties, union correspondence--- ALL RECORDS pertaining [to the respondent] under the employment of Nanaimo School District No. 68.

[27] In response to the District's request for clarification of, and to narrow this request, the respondent replied as follows:

- 1). The date range is April 27th, 2022 to October 12, 2023 of when I was employed by Nanaimo School District, of which I'm requesting all records from the district from that date range.
- 2). Further to this, during that time if any records were sent from Comox School District pertaining to the dates of August 2020 to June 2023 from Comox School District, this would also be assistive.
- 3). Any information from Coquitlam District to Nanaimo School District provided to Nanaimo School District in the year of 2022 to 2023, that was regarding any time in Coquitlam from before this time would be appreciated.
- 4). Information from Payroll including email correspondence about [the respondent] and her status as a teacher, her pay scale and her payout information, plus notes documented from [named third party] from April 2022 to February 2023
- 5). Information from SD68 regarding the porting of my seniority from Coquitlam to Nanaimo, and the transactions surrounding this.
- 6). Information pertaining my banked sick time with Comox School District that was required to be ported over to Nanaimo School District.
- 7). All Union Correspondence with the district surrounding [the respondent] from August 2022 to December of 2023, after I was dismissed wrongfully.
- 8). Board office transactions and emails with previous employers, and meetings held about [the respondent] from April 2022 to December 2022
- 9). Information collected from the Health and Wellness Representative who was phoning [the respondent] to ask about her Mental Health(?)???? --- More importantly.... why was someone calling [the respondent] to screen her mental health?? [the respondent] is a licensed mental health clinician.... --- FOR SD68 to provide all data surrounding why a Health and Wellness person was contacting her and screening her mental health.
- 10). Interviews with teachers at my school and all feedback from those teachers pertaining to the events happening at Cedar Community Secondary and [the respondent] ----- all data pertaining interviewing staff for information.

11). All interviews with outside agents to the school of Cedar Community Secondary from September 2022 to June 2023.

12). All information pertaining to Employment Insurance and end dates with contracts--- confirmation of end dates for my top up contract vs. the end date for my continuing contract.

13). All correspondence with School Trustees and all meetings held about [the respondent], of which she was instructed not to attend any of these meetings---- all data pertaining to all meetings held about [the respondent] with Cedar Community Secondary

14). All correspondence about [the respondent] from [named third party], and her correspondence with [named third party], [named third party] and the Board Office.

15). All documents, like my hours to work, sent from the principal of [named third party] to the Board office---please release these documents that pertain to work hours at the school (as she made tonnes of errors on them).

Notes/correspondence came from [named third party], [named third party], [named third party] about [the respondent] and her job or job duties.

Notes surround[d]ing a meeting held with Child and Youth Mental Health that [named third party] attended, surrounding outside agents entering my school and accessing kids within the building against any consent..... notes on this meeting.

“All records” means every document pertaining to my employment, including performance reviews, disciplinary actions, and communication logs.

ALL INFORMATION pertaining to April 2022 to December 2023 about [the respondent], Along with any documents lingering for the 2023 to 2024 year as well.

[28] The District searched and located records for items 2 through 7 and 12 and sent them to the respondent.¹² The District seeks permission to disregard the remaining portions of the request above.

Section 43

[29] Section 43 allows the Commissioner to grant the extraordinary remedy of limiting a respondent’s right to access information under FIPPA. Public bodies do not have discretion to disregard access requests on their own; they must obtain permission to do so from the Commissioner.¹³

¹² District’s email to the respondent dated May 15, 2026.

¹³ Order F18-25, 2018 BCIPC 28 at para 14.

[30] Section 43 is remedial, not punitive in nature.¹⁴ It is not a mechanism for public bodies to avoid their obligations under FIPPA. Section 43 applications require careful consideration because granting this relief curtails or eliminates the rights of access to information granted by the Legislature under FIPPA.¹⁵

Vexatious - s. 43(a)

[31] Section 43(a) allows the Commissioner to authorize a public body to disregard an access request because the request is frivolous or vexatious. Here the District relies on both.

[32] Vexatious requests include those made in bad faith, such as for a malicious purpose or for the purpose of harassing or obstructing the public body. Past orders have found requests to be vexatious in the following circumstances:

- The purpose of the requests was to pressure the public body into changing a decision or taking an action;
- The respondent was motivated by a desire to harass the public body;
- The intent of the requests was to express displeasure with the public body or to criticize the public body's actions; and
- The request was intended to be punitive and to cause hardship to an employee of a public body.¹⁶

[33] Evidence of ill will between the parties is not enough, on its own, to support a finding that an access request is vexatious.¹⁷

Parties' submissions – s. 43(a)

[34] The District says the access request is vexatious and an abuse of process.¹⁸ The District further says the respondent is using this process in bad faith, with vexatious motives and their pattern of behaviour has demonstrated they will likely continue to abuse FIPPA in the future unless prevented from doing so.¹⁹

¹⁴ *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at para 32.

¹⁵ Decision Auth (s. 43) 99-01 (December 22, 1999) at para 4.3. Available on the OIPC website at <https://www.oipc.bc.ca/documents/decisions/158>.

¹⁶ Order F22-08, 2022 BCIPC 8 (CanLII), at paras 81-83, and the decisions cited therein.

¹⁷ Order F21-34, 2021 BCIPC 412 (CanLII) at para 56.

¹⁸ District's initial submission, p. 1. The District does not specifically separate out the portions of the request that remain unanswered.

¹⁹ District's response submission, p. 5.

[35] The District says the respondent's motive for the access request is to pursue personal grievances against it and its employees through FIPPA. The District says the respondent has exhausted all other avenues against it²⁰ and now resorts to FIPPA seeking to fight matters that are decided and cannot be relitigated.²¹

[36] The District says the respondent's use of FIPPA is to: vent anger and berate District employees and other parties; make unfounded and intemperate allegations of defamation/slander, illegality, misrepresentation, conspiracy or tampering, and in particular continuing to make these assertions after they have been dismissed as vexatious by the BC Supreme Court.²²

[37] The District further says the respondent's purpose for making the access request is to pressure the District into changing its decisions about her employment dispute; to harass the District; to express displeasure or criticize it; and to be punitive or to cause hardship to its employees.

[38] The District relies upon the court case the respondent filed against it that was dismissed, in part, as vexatious.

[39] The District also relies upon the respondent's own statements in her emails and provides those emails in this inquiry. By way of example, these statements include: "you are being sued"; "—— there is a large defamation matter happening, which Nanaimo acted on and then created a report with no teachers in it—spreading false information to outside agents everywhere..."; "Go F[*&*] yourself for ruining my career off defamation"; "I want 50 million dollars".²³

[40] The respondent says the District's application should be dismissed and data released due to errors, omissions, prior events, and forthcoming data. The respondent then goes on to explain in detail why she made each of the unanswered portions of her access request.

[41] The following statements are excerpts of some of what the respondent says the records will reveal:

- professionals were acting on false data from a smear campaign of me;
- false reporting of my mental health was their plan for framing me to draw less exposure;

²⁰ A Board hearing, a union grievance process, and a civil case: *Carruthers v. Comox Valley School District No. 71*, 2025 BCSC 2137.

²¹ District's response submission, p. 1.

²² District's response submission, p. 2 citing *Carruthers v. Comox Valley School District No. 71*, 2025 BCSC 2137.

²³ District's response submission, pp. 2- 5 and Appendices A-E.

- people would attack and demean me and my position;
- I was being framed to draw less exposure to the other crimes they committed;
- I was being boycotted;
- professionals are making statements about my professionalism that are simply just not true;
- they are discussing my business and making derogatory statements about my business;
- the [named District employee]'s multiple breaches to the school code of conduct;
- there has been false reporting of me, my family, my mental health and this has been used as a tool for framing me when a victim of a crime, leading up to a court trial;
- the [named District employee] was acting outside the norms of the job (altering student marks and programs);
- random defamatory statements being mentioned by [named District employees]
- a [named District employee] micromanaging contact with parents; and
- complete voiding of my labour rights and freedoms.²⁴

[42] The respondent says her requests are neither frivolous nor vexatious. She says they are for identifiable records concerning her own employment and professional reputation. She further says she made the requests to obtain a complete understanding of the records held by the District concerning her and to ensure the accuracy and fairness of information maintained by a public body.

[43] The respondent says that access to these records is consistent with the purposes of FIPPA, which promote transparency, accountability, and an individual's right to access their own personal information.²⁵ The respondent outlines these purposes in detail.

[44] The respondent relies on the District's burden of proof and the fact that s. 43 should only be used in exceptional circumstances. She says: "dismissing applications that are not adequately supported reinforces confidence that access rights will not be curtailed without proper justification."²⁶

Analysis and findings

[45] For the reasons that follow, I find that the access request is vexatious because it was made for improper purposes and is an abuse of the right of access given by FIPPA.

[46] An access applicant's intent for making a request is central to applications for relief under s. 43(a). If the intent of an access request is to vex a public body

²⁴ Respondent's submission, pp. 4-8.

²⁵ Respondent's submission, p. 9.

²⁶ Respondent's submission, p. 11.

rather than to seek access to the information, s. 43 relief is available.²⁷ In my view, the respondent's intent is clearly to vex the District rather than to seek legitimate access to records.

[47] The purpose of the respondent's entire access request was, in my view, to express her ongoing displeasure with the District, criticize its actions, and cause hardship for the named District employees.

[48] In making the finding about the respondent's purpose I was persuaded by her own statements in her emails to the District, in her access request, and in her submissions for this inquiry. I also considered her tone in those emails because previous orders have found that tone is one indicator of vexatious access requests.²⁸ Here, I would describe the respondent's tone as confrontational, rude, and sometimes aggressive.

[49] Another indicator of vexatious intent here is the timing of the access request. The respondent did not get the results she hoped for through a civil action, and in my view, is now using FIPPA to keep those matters alive. If she had a legitimate interest in the records, she would not have waited more than two and half years after her dismissal for cause to make an access request. Instead, it was only after her civil action was dismissed²⁹ that she made this request.

[50] Finally, the access request itself exhibits the following characteristics which, in my view, support the conclusion it is vexatious, as past orders have interpreted this term:³⁰

- it contains a multitude of separate requests – there are 15 numbered items;
- they duplicate or overlap – for example, “Board office transactions and emails”³¹ and “All correspondence with School Trustees and all meetings;”³²
- they are for records showing that District staff engaged in unethical or inappropriate behaviour, which appear to have the sole aim of putting District staff in a bad light – for example repeatedly naming specific employees in the context of alleged wrongdoing such as holding surreptitious meetings³³ and making a lot of errors for payroll (hours) information;³⁴ and

²⁷ Order F25-14, 2025 BCIPC 17 (CanLII) at para 33.

²⁸ See for example, Order F19-44, 2019 BCIPC 50 at para 32.

²⁹ Dismissed with costs and without leave to amend her pleadings.

³⁰ For similar reasoning, see Order F20-15, 2020 BCIPC 17 (CanLII) at para 28.

³¹ Access request, 8.

³² Access request, 13.

³³ Access request, 13.

³⁴ Access request, 15.

- portions of the request are long, with convoluted, run-on sentences, interspersed with questions, comments, and allegations or insinuations of inappropriate conduct.³⁵

[51] For all of the reasons above, I am persuaded that the respondent's access request is vexatious. It was made for an improper purpose and is an abuse of the right of access given by FIPPA.³⁶

Unreasonable interference - s. 43(c)(i) and excessively broad – s. 43(d)(ii)

[52] For the reasons outlined above, I find the outstanding parts of the request are vexatious and s. 43(a) applies. Given that s. 43(a) applies, it is not necessary for me to consider whether ss. 43(c)(i) and, or 43(d)(ii) also apply and I decline to do so.

Remedy

[53] Given my finding that the access request is vexatious for the purposes of s. 43(a), I authorize the District to disregard the outstanding parts.

[54] The District also asks for future relief. The BC Supreme Court has interpreted s. 43 as allowing the Commissioner the jurisdiction to grant future relief.³⁷

[55] Previous s. 43(b) decisions have tailored any remedy to the circumstances of each case and have taken into account factors such as:

- a respondent's right of access to her own personal information;
- whether there are any live issues between the public body and the respondent;
- whether there are likely to be any new responsive records; the respondent's stated intentions;
- the nature of past requests; and
- other avenues of obtaining information in the past and future available to the respondent.³⁸

[56] The District asks that I authorize it to limit the respondent's future requests to a reasonable time limit (e.g., three hours of processing) and that the District be permitted to determine what constitutes a single request. The respondent does

³⁵ Access request, 9.

³⁶ For similar reasoning, see Order F23-61, 2023 BCIPC 71 (CanLII) at para 39.

³⁷ *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at paras 40-41.

³⁸ Order F20-15, 2020 BCIPC 17 (CanLII) at para 34 citing Decision F06-03, 2006 CanLII 13535 (BC IPC.)

not comment specifically on future relief but I understand her to oppose that request.

[57] In deciding on the appropriateness of future relief in this case, I considered that requests under FIPPA are not a forum to air grievances, criticize a public body, or make accusations. In my view, the multi-part access request here is using FIPPA in that way. The right of access to information should only be used in good faith. Misuse by one person can threaten or diminish the legitimate access right of others and thus, must not be tolerated.³⁹

[58] For the specifics of this access request, I considered that some of what the respondent is asking for is her own personal information. The District did respond to the more manageable portions of her access request including providing records with her personal information about her employment (i.e., records about payroll, seniority, sick time, and District correspondence with the union about her dismissal).

[59] The next factor I considered is that there are no live issues remaining between the parties. I am satisfied, from the respondent's own stated intentions, that she wants to revive issues already decided, in particular her claims of defamation against the District and personally against its employees.

[60] I also considered the fact that the difficult nature of the relationship between the parties is readily apparent to me. From the volume of the respondent's submissions and attempts to introduce evidence related to reviving her employment issue, I recognize the respondent is unlikely to cease her attempts to air those grievances. I am however mindful that even the most sweeping order I could make under s. 43 would not stop those attempts.

[61] The final factor I considered is that from her submissions, it is apparent to me the respondent has not considered the impact of responding to her complicated multi-part request. By impact, I mean on the operations of the District generally in terms of staff time, and on its corresponding ability to respond to other access applicants in a timely fashion.

[62] For all of the above reasons, I find that it is reasonable to restrict the respondent to one request at a time for the next two years. The District has the discretion to determine what is "one" request.

[63] The District also asks for permission to spend no more than three hours responding to any one future request from the respondent. The District estimates that responding to the request I am authorizing it to disregard here would consume over 1,000 hours of the District's resources. The District says it would

³⁹ Decision-Auth (s43) 99-01 (December 22, 1999) at p.8. Available on the OIPC website at <https://www.oipc.bc.ca/documents/decisions/158>.

have no resources to respond to any other individual's request for access to their records.⁴⁰ The District says it does not have dedicated staff for responding to access requests.⁴¹

[64] While I appreciate the District's position, I am not satisfied that it has provided sufficient evidence to establish that it is necessary to limit the amount of time it spends responding to any one of the respondent's future requests.⁴² Her future requests may not be as extensive and multi-part, so they may not require the same amount of time and resources to respond. Further, nothing in this order precludes the District from applying for s. 43 relief for a future request if the District believes it is needed.

[65] Finally, I note that the District does not need authorization from the OIPC under s. 43 to disregard pieces of correspondence to which it is not obliged to reply under FIPPA, such as questions or requests for clarification about her employment issue.⁴³

CONCLUSION

[66] For the reasons provided above, I make the following authorization under s. 43:

1. The District is authorized to disregard the unanswered portions of the respondent's access request.
2. For a period of two years from the date of this authorization, the District is authorized to disregard any access request made by, or on behalf of, the respondent over and above one open access request at a time.
3. For the purposes of this authorization, an open access request is a request for records under s. 5 of FIPPA to which the District has not yet responded as required by Part 2 of FIPPA.

July 30, 2026

ORIGINAL SIGNED BY

Carol Pakkala
Adjudicator

OIPC File No.: F26-01552

⁴⁰ District's response submission, p. 6.

⁴¹ District's initial submission, p. 2.

⁴² For a similar analysis, see Order F18-37, 2018 BCIPC 40 (CanLII) at para 68.

⁴³ See for example, Order F21-14, 2021 BCIPC 18 (CanLII) at para 47.