

## ACCESS AND PRIVACY OFFICE

### Frequently Asked Questions: General

Is the University required to create a record from a record or data that is in electronic form?

Yes, in some circumstances. The University must create a record for an applicant if the record can be created from a record that is in electronic form using existing hardware and software and technical expertise. Fulfilling this obligation should not unduly interfere with the operations of the University.

When does the University notify third parties about information requests?

Section 30 sets out when the University must give notification to a third party. If the University is considering giving an applicant access to a record containing personal or business information of a third party, then notice must be given. The third party has 20 days to consent to disclosure or provide reasons why the record should not be disclosed. If access to the record is not going to be provided, notification is not required but is recommended as a courtesy unless it would be onerous.

Is it appropriate to circulate a monthly listing of FOIP requests, including the name of the requester, to unit FOIP Advisors?

No. It is not appropriate to reveal personal information about an applicant unless an employee needs to know that information in order to deal with the request. [Section 40(1)(h)] If the applicant is a business or organization, that information can be disclosed as only individuals have personal privacy rights. However, this practice is not recommended. A description of the request and the type of applicant can be circulated internally or provided to the Board.

What are the consequences for an employee of the University who destroys a record subject to a request with the intent to evade the request?

Destroying any record subject to the Act with the intent to evade a request for access is an offense and the individual is liable to a fine of more than \$10,000. [Section 92(2)]

What are the consequences to the University if it does not comply with the FOIP legislation?

Apart from the embarrassment for a major public University in refusing to comply with mandated legislation of the provincial government and any resulting adverse publicity, the Information and Privacy Commissioner has the right to order compliance. In addition, the Act allows for fines up to \$10,000 for individuals who:

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When we make a business decision to outsource data management or data storage, the University must ensure that

- the third party provider can provide reasonable protection against such risks as unauthorized access, collection, use, disclosure, or destruction;
- the service agreement is specific about where the data will be stored, who owns the data, the circumstances under which the data can be accessed and/or used by the third party provider, what happens in the event of a security breach, and what happens when the service is no longer required; and
- clients are informed that their information may be processed by a third-