

Understanding FIPPA

January 2015

Agenda

- Objective: to provide a brief overview of the *Freedom of Information and Protection of Privacy Act* and its impact on York University
 - FIPPA's fundamental principles
 - FIPPA decision-making at York University
 - Exemptions and exclusions
 - Access to information requests
 - Protection of privacy – collection, use and disclosure of personal information
 - Handling privacy breaches
 - Policies and tools for managing records

FIPPA's Principles

- Ontario's *Freedom of Information and Protection of Privacy Act* (FIPPA) has two main principles, and provides the public with certain rights:
 - ACCESS
 - right of access by the public to information in the University's custody or control, subject to certain specific and limited exemptions
 - right of appeal to Information and Privacy Commissioner
 - PRIVACY
 - protection for personal information of individuals who work and study at the University
 - rules for the collection, use and disclosure of personal information
 - right of access to one's own personal information and to correct it
 - right to complain to Information and Privacy Commissioner

Access to Information and Protection of Privacy Policy (June 2006)

- Applies to:
 - records in the custody or under the control of the University, including those records relating to the operation and administration of the University and those records containing information relating to faculty, staff and students individually
- Policy:
 - York University affirms the importance of conducting its operations as far as possible in ways that are open to public scrutiny. York University is also committed to the protection of privacy and personal information of individuals who work and study at the University. Accordingly, the University will both disclose and protect information in accordance with the Act

Records and Information Management Policy (June 2006)

- The University shall:

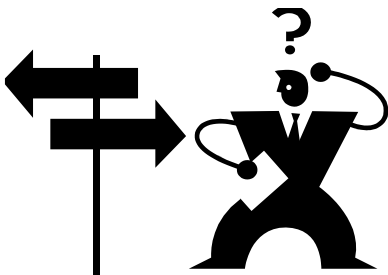
- promote orderly and efficient creation, use, maintenance, retention and disposition of records, and provide for records to be retained and preserved or destroyed according to legal, fiscal and statutory requirements, archival value and administrative or operational needs
- provide for the preservation of those records which will document its activities and history
- develop practical guidelines for records and information management at the University, including a general framework for managing records that are common to university offices
- take the necessary steps to maintain its records, including personal information, with sufficient security to protect privacy and confidentiality, and permit disclosure of records and information where appropriate (see *York University Policy on Access to Information and Protection of Privacy and Freedom of Information and Protection of Privacy Act*)

- Each administrative unit shall:

- create, receive, use and maintain records that relate to the administration or operation of the University; these records are and remain the property of the University

FIPPA decision-making at York

- President is designated “Head” of the institution and has delegated decision-making powers to appropriate officials
- Delegated decision makers (Area Information and Privacy Officers) work with Information and Privacy Coordinator to determine:
 - records in their areas which may be disclosed routinely without need for a formal access request
 - records which may be excluded from FIPPA or exempted from disclosure pursuant to a formal access request



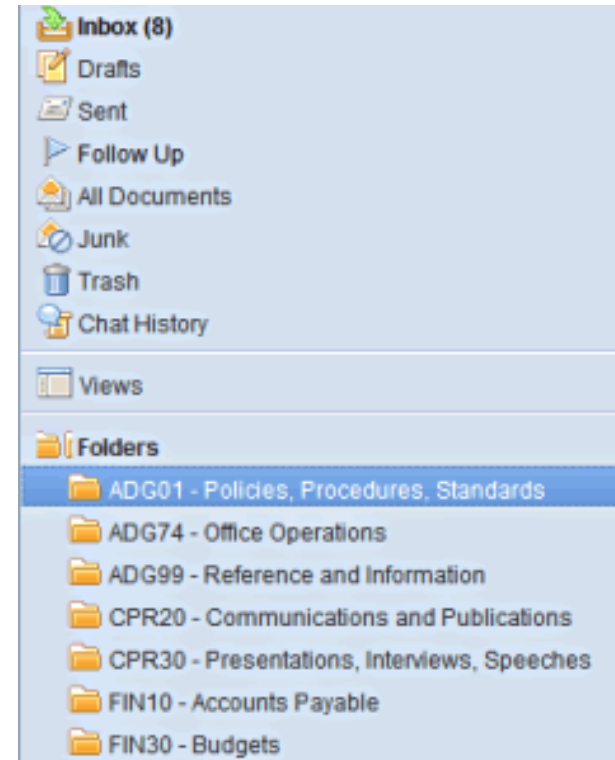
Information and Privacy Coordinator



- administers both records and information management strategies and freedom of information/protection of privacy activities at the University
- with respect to access to information requests:
 - ensures that applicable time limits (normally 30 days) are observed
 - works with appropriate area(s) to identify records and prepare response
 - works with Area Information & Privacy Officers and Counsel to determine whether exclusions or exemptions apply
 - drafts all required response letters including decision letter
 - if record is disclosed, ensures that applicant receives a copy of, or access to, the record(s)
- deals with Information and Privacy Commissioner on appeals and privacy complaints

What is a record under FIPPA?

- FIPPA applies to records in the University's custody or under its control
- Record = any record of information, in all formats and media, including
 - correspondence, memoranda, books, plans, maps, drawings, diagrams, pictorial or graphic work, photographs, films and microfilms, sound recordings, videotapes, machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof
- Email messages are records!



Obligations on the University: **ACCESS**

- Make records accessible subject to the exemptions and exclusions
- Complete requests in a 30-day timeframe
- Charge fees
 - \$5.00 application fee
 - fees for search time, photocopying, developing a computer program

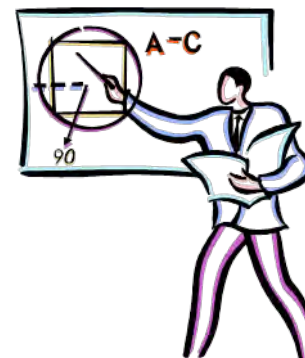


FIPPA Exemptions

- Some records are **exempted from disclosure** and either **must not** or **may not** be released under FIPPA. Some key areas are:
 - **personal information of another individual**
 - **third party information** (trade secret or scientific, technical, commercial, financial or labour relations information) AND is supplied in confidence AND if disclosed, could result in harm
 - **law enforcement**: where disclosure could interfere with an investigation
 - **solicitor-client privilege**
 - **economic interests**: financial, commercial, scientific or technical information belonging to the University with monetary value
 - **institutional plans** or positions that have not yet been put in place or made public
 - **educational tests**, testing procedures or techniques, if disclosure could prejudice the use or result
- If a record contains information that is exempted from disclosure that can reasonably be severed, the right of access applies to the remainder of the record.

FIPPA Exclusions

- Certain records are excluded from FIPPA, including but not limited to:
 - records about or associated with research
 - records of teaching materials
 - labour relations and employment related records, with limited exceptions
 - private (non-university) donations to the University Archives



Access to Information Requests

- Any person can request
 - access to any university record
 - access to a university record containing personal information about that person
- The right of access may be subject to a fee payment for specific services
- Details in *Guidelines for Units Responding to Access Requests* on the IPO website



ACCESS TO INFORMATION AND CORRECTION OF PERSONAL INFORMATION REQUEST FORM

Please Note: a \$5.00 application fee is required to process all requests (cheque or money order, payable to YORK UNIVERSITY).

Request for (check one only):	Name of York University office to which you are making your request
<input type="checkbox"/> Access to General Records	<input type="checkbox"/> Information and Privacy Office
<input type="checkbox"/> Access to own Personal Information	<input type="checkbox"/> Other, please specify _____
<input type="checkbox"/> Correction of own Personal Information	_____

Last name:		
First name:	Middle name:	
Street, address, apartment:		
City/town:	Province:	Postal code:
Telephone number: day _____ evg _____	Email (optional):	
If request is for access to, or correction of, own personal information records: Last name appearing on records <input type="checkbox"/> same as above, or _____		

Detailed description of requested records, personal information or personal information to be corrected: (If you are requesting access to or correction of your personal information, please identify the personal information bank or record containing the personal information, if known.)

When someone requests information

- If information requested is routinely releasable, staff may provide the applicant with the records immediately – no formal request is required
- If a record is requested that is not available through routine channels, staff should forward the request to the Information and Privacy Coordinator
- Forward request to Information and Privacy Coordinator when
 - the requester specifically refers to the Act, makes a written request or uses the request form
 - the area feels that the records requested may contain information that may or must be withheld under one of the exceptions
- When in any doubt as to whether the information can be released through routine channels, contact Information and Privacy Coordinator
 - see “Guidelines for Units Responding to Access to Information Requests”

Number of Requests Completed

	Personal Information	General Records	Total Requests
2006	6	16	22
2007	6	15	21
2008	7	11	18
2009	6	18	24
2010	5	21	26
2011	7	7	14
2012	7	13	20
TOTAL:	44	101	145

Source of Requests

Number of Requesters	Type of Requester	Personal Information	General Records	Total Requests
43	Faculty, Staff, Students, Alumni	39	48	87
15	General Public	5	19	24
8	Media		20	20
8	Associations, Organizations		14	14
74	TOTALS	44	101	145

Legislative Compliance Rates

	Requests completed within 30 days	Extended compliance (with notices)
2006	55%	68%
2007	62%	86%
2008	83%	100%
2009	71%	96%
2010	81%	92%
2011	100%	N/A
2012	95%	100%

What is Personal Information?



- **Personal information (PI)** = recorded information about an identifiable individual, and includes
 - ethnic origin, race, religion, age, sex, sexual orientation, marital status, etc.
 - information regarding education, financial, employment, medical, psychiatric, psychological or criminal history
 - identifying numbers, e.g., S.I.N., student number
 - home address, telephone number
 - personal opinions of, or about, an individual
- BUT, information about individuals acting in their business or professional capacity (name and title, office address, telephone no., university email address, etc.), is NOT personal information
- Does not include information about an individual who has been dead for more than 30 years

Obligations on the University: **PRIVACY**

- Collect, use and disclose personal information appropriately
- Retain personal information as per regulation
 - minimum 1 year after use
- Dispose of personal information securely



Collecting personal information

- Normally collect personal information directly from the individual to whom it relates
- Forms that collect personal information must provide notice of collection to individual and in some cases, obtain their consent
- Notice must include:
 - legal authority for the collection (i.e., the *York University Act*, 1965)
 - principle purposes for which the personal information is intended to be used
 - contact information of a University official who can answer questions about the collection



Sample privacy notice

- **Privacy:** Personal information in connection with this form is collected under the authority of *The York University Act, 1965* and will be used for educational, administrative and statistical purposes. If you have any questions about the collection, use and disclosure of personal information by York University, please contact: Title, Address, Telephone Number, (Email).

(<http://ipo.info.yorku.ca/privacy/standard-collection-notice/>)

Indirect collection of personal information

- May collect personal information indirectly if:
 - the individual or the Information and Privacy Commissioner authorizes another manner of collection
 - the institution is entitled to receive it from another FIPPA institution
 - the information is collected for the purpose of:
 - determining suitability for an honour or award to recognize outstanding achievement or distinguished service
 - law enforcement
 - the conduct of a proceeding or a possible proceeding before a court or tribunal
 - another manner of collection is authorized by or under a statute



Using personal information

- Personal information may be used:
 - for the purpose for which the personal information was collected or a consistent purpose
 - where reasonably necessary for fundraising (alumni information) under specific conditions
- Make efforts to ensure personal information used is accurate and up to date

Events
Calendar



Say Cheese!

Come see what our grads are doing around town. Check out our photos from Vancouver to Montreal and around the world » [view photo gallery](#)

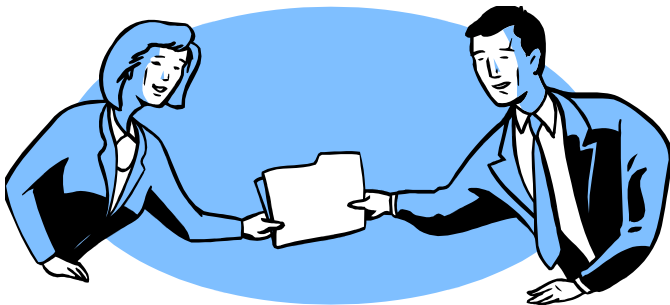
YORK
ALUMNI

Disclosing personal information

- Personal information may be disclosed to someone other than the individual about whom it pertains in limited circumstances such as:
 - where an individual has consented to the disclosure
 - in compelling circumstances affecting health or safety of an individual
 - where information is collected to create a record to be available to the general public (e.g., convocation roll)
 - for a research purpose, where specific conditions are met, and with a research agreement
 - in compliance with legislation or an agreement
 - for law enforcement investigations and proceedings
 - in compassionate circumstances
 - to an agent or other representative authorized by the individual to make inquiries on their behalf
 - for the University's own fundraising activities (personal information in alumni records only)
- Policy on Access to Student Records and Protection of Privacy (<http://www.registrar.yorku.ca/privacy/>)

Disclosing personal information internally

- Personal information may be disclosed within the University:
 - to an employee of the institution, or to a consultant or an agent, who needs the record in the performance of duties and where disclosure is necessary and proper in the discharge of the institution’s functions
 - if an employee has a legitimate need for an individual’s personal information they have the right to obtain it from another university unit, and to disclose it where it is “necessary and proper”
 - if an employee is asked for an individual’s personal information they are responsible for assuring that it is being requested for “necessary and proper” purposes by someone fulfilling his/her duties

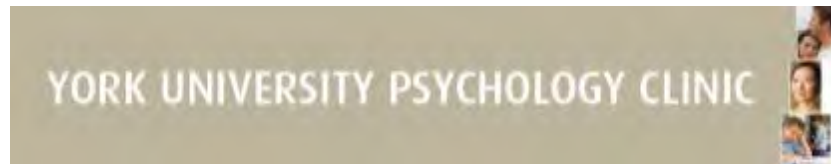


When not to disclose PI to the person to whom it relates

- Personal information may not be disclosed to the individual to whom it relates where:
 - specified exemptions apply (e.g., solicitor-client privilege, third party information, etc.)
 - disclosure would be an invasion of another's privacy
 - information is supplied in confidence and is evaluative/opinion material compiled for one of three purposes
 - assess teaching or research
 - determine eligibility or qualification for academic program
 - determine suitability for honour or award
 - medical information where the disclosure could reasonably be expected to prejudice the mental or physical health of the individual

PHIPA – personal health information

- *Personal Health Information Protection Act (PHIPA)*
 - applies to personal health information collected, used, and disclosed by Health Information Custodians (HICs)
 - Counselling & Disability Services
 - Gorman/Shore Sport Injury Clinic
 - Psychology Clinic



GORMAN/SHORE SPORT INJURY CLINIC

Privacy breaches and complaints

- A privacy breach is an unauthorized collection, use or disclosure of someone's personal information in contravention of FIPPA or PHIPA, such as:
 - surreptitious collection of personal information
 - personal information stolen or systems hacked
 - accidental disclosure to an unauthorized person or group
 - deliberate disclosure to an unauthorized person or group (for fraudulent or other purposes)
- If a privacy breach occurs or is suspected:
 - stop the breach
 - report it to your supervisor immediately
 - contact the IPO
 - complete the *Privacy Breach Report Form* (on IPO website)

How to avoid a privacy breach

- Don't sent personal information by email
- If you must, check the addressee once, twice, three times...
- Dispose of confidential personal information in the confidential bins or better yet, shred them with a cross-cut shredder
- Don't store personal information on mobile devices that are easily lost (e.g., flash drives, DVDs, laptops, smartphones)
- If you must transport personal information on a laptop or mobile device, make sure it is encrypted
- Beware of “cloud computing” tools

Cloud Computing



- What is it?
 - software and/or hardware delivered over the Internet (i.e., “in the cloud”)
 - users connect to software and data stored remotely on third-party servers usually provided by a commercial entity external to the University
 - examples: Gmail, Dropbox, SurveyMonkey, Facebook, Flickr, Skype
- What are the risks?
 - privacy and data security
 - intellectual property and ownership
 - data availability, accessibility and retention
- What to do?
 - understand the risks and issues
 - manage and mitigate them
 - procedures are forthcoming

Policies and tools for managing records

- Records and Information Management Policy
- Common Records Schedule
 - provides file classification plan / folder structure for all University records
 - applies retention and disposition rules for all University records
- Tip Sheets and Information Circulars
 - Managing Email as a Record
 - Confidential Records
 - Secure Destruction of Records
 - Transitory Records
 - Holding a Records Clean-Up Day
 - Security of University Records on Portable Devices
 - Scanning University Records
 - Minute-Taking Tips & Techniques
 - FIPPA and Student Information
 - and more...



Information and Privacy Office

Carolyn Heald

Director and Coordinator, Information & Privacy Office

tel: 416-736-2100 ext. 20398 email: cheald@yorku.ca

Website: ipo.info.yorku.ca/

General email: info.privacy@yorku.ca