

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## INTERIM ORDER PO-3026-I

Appeal PA11-57

University of Ottawa

December 19, 2011

**Summary:** The appellant requested records from the university under the *Act* concerning a complaint made against him by a fellow student. The university denied access to responsive records or portions of records in accordance with section 49(a), in conjunction with section 19 (solicitor client privilege), and section 49(b) (personal privacy). The university also claimed that it did not have custody or control of certain records of professors who had been in contact with the university's Protection Services department. The university also withheld certain information that it claimed was non-responsive. The appellant also claimed that the university did not conduct a reasonable search for records. This order partially upholds the university's decision to withhold information under sections 49(a) and (b), and determines the French information at issue in certain records is non-responsive to the appellant's request. This order also upholds the university's search for responsive records.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 2(1) (definition of personal information), section 19, 24, 49(a) and (b)

**Orders and Investigation Reports Considered:** Orders PO-1750, PO-1756, PO-1767, PO-2115, Po-2765, PO-2967, PO-3009-F.

## **OVERVIEW:**

[1] The University of Ottawa (the university) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the following records dated from October 1, 2009 to the time of the request:

- 1) Any personal file(s) maintained in the name of [named requester], student [#];
- 2) All documentation, notes, records and reports relating to allegations made by [two individuals] against [requester];
- 3) All documentation, notes, records, reports and minutes relating to meetings where [requester] has been present, or in his absence where he was discussed;
- 4) All documentation, notes, records and reports relating to information released about [requester] to any individual not in the employ of the University of Ottawa;
- 5) All information relating to the student code of conduct and the teacher code of conduct for 2009-10 in the [named] department ...Faculty of Arts.

[2] The university located the responsive records and issued a decision denying access to the records in part, relying on sections 49(a) with 19 (solicitor-client privilege) and 49(b) (personal privacy).

[3] In its decision, the university further advised that it was unable to search the records from three identified professors, due to an unresolved issue related to the custody and control of records from members of the Association of Professors of the University of Ottawa (APUO).

[4] The requester, now the appellant, appealed the university's decision.

[5] During mediation, an additional email was located and disclosed to the appellant. Also during mediation, the appellant maintained that the disclosed incident report represents only a synopsis of the original incident report. Accordingly, the appellant argues that the search for the original incident report was not reasonable and this is at issue in the appeal.

[6] In addition, the appellant pointed out that he never received a letter from Protection Services, in reference to page three of the disclosed incident report, and

questioned the search for an email sent to a named professor, to which a reference is made in Record 106.

[7] The university agreed to conduct further consultations with the Director of Protection Services and the university legal counsel on these issues. As a result, the university located a draft version of the letter as referred to in the incident report, and advised that this letter was never sent to the appellant. With respect to the search for the email sent to the named professor, the university advised that this email could not be found. The university referred the appellant to Record 159 as evidence that the named professor received the information that would have been contained in the email at issue.

[8] On June 6, 2011, the university issued a supplemental decision advising that access was denied to the recently located Record 168, pursuant to section 19 in conjunction with section 49(a) of the *Act*, and that access was granted to the email indexed as Record 169. The university attached a revised index of records to its decision letter.

[9] The appellant subsequently indicated that he wished to pursue access to the severed portions of the withheld records, and maintained his position that the search for additional emails and other incident reports was inadequate. In addition, the appellant indicated that he is pursuing access to the information deemed to be non-responsive to the request, which has been removed from Records 40, 41, 150, 151, 152, and 153.

[10] The appellant, however, indicated that he was not pursuing access to the email address and phone number that had been severed from Records 73 and 81, pursuant to section 21 of the *Act*. As this was the only information at issue in these records, Records 73 and 81 are no longer at issue. As well, because the mandatory personal privacy exemption in section 21(1) was only claimed for Record 73, the mandatory exemption in section 21(1) is no longer at issue in this appeal.

[11] With respect to the professors' records that the university advised were not within its custody or control, the appellant indicated that he is still seeking access to the records held by two of these professors, as he takes the position that they acted on behalf of Protection Services.

[12] No further mediation was possible and the file was transferred to adjudication. I sought and received representations on the facts and issues in the appeal from the university and the appellant and shared them in accordance with section 7 of the IPC's *Code of Procedure and Practice Direction* number 7.

[13] In this order, I partially uphold the university's decision to withhold information under sections 49(a) and (b). I also find that the French information at issue in certain

records is non-responsive to the appellant's request. As well, I uphold the university's search for responsive records.

[14] In addition, as I have recently issued order PO-3009-F addressing the issue of the university's control of records in the possession of its professors, I have decided to seek specific representations from the university, the two professors and the APUO concerning whether the records of the two professors who were in contact with the university's Protection Services concerning the allegations made against the appellant are within the university's control under section 10(1) of the *Act*. The issue of whether the university has control of responsive records of the two professors who were in contact with the university's Protection Services will be addressed in a later order.

### **RECORDS:**

[15] The records remaining at issue consist of the severed portions and withheld pages of various reports, letters and emails as set out in the attached Appendix.

### **ISSUES:**

- A. Are the French portions of Records 40, 41, 150, 151, 152, and 153 responsive to the request?
- B. Did the university conduct a reasonable search for additional emails and other incident reports records?
- C. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- D. Does the discretionary exemption at section 49(a) in conjunction with the section 19 exemption apply to the information at issue?
- E. Does the discretionary exemption at section 49(b) apply to the information at issue?
- F. Did the university exercise its discretion under sections 49(a) and (b)? If so, should this office uphold the exercise of discretion?

## **DISCUSSION:**

### **A. Are the French portions of Records 40, 41, 150, 151, 152, and 153 responsive to the request?**

[16] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

- (1) A person seeking access to a record shall,
  - (a) make a request in writing to the institution that the person believes has custody or control of the record;
  - (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

...

- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[17] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour [Orders P-134 and P-880].

[18] To be considered responsive to the request, records must "reasonably relate" to the request [Orders P-880 and PO-2661].

[19] The university submits that the French portions of Records 40, 41, 150, 151, 152, and 153 are not responsive to the appellant's request for access to information. The non-responsive portions of these records are the comments made in the email exchanges relating to private conversations between the university's legal counsel and the Protection Services Director.

[20] The appellant submits that:

I understand that this information was uncovered in the course of the search for responsive information and therefore extrapolate that this information is found in close proximity to the information deemed responsive. It is my request to receive all information that an individual may find if searching for the responsive information.

### ***Analysis/Findings***

[21] Based upon my review of the French information at issue in Records 40, 41, 150, 151, 152, and 153, I find that it is not responsive to the appellant's request. It is of a personal nature and in no way relates to the appellant or the subject matter of the records. Accordingly, I find that this information is outside of the scope of the appellant's request.

#### **B. Did the university conduct a reasonable search for additional emails and other incident reports records?**

[22] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 24 [Orders P-85, P-221 and PO-1954-I]. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[23] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [Orders P-624 and PO-2559]. To be responsive, a record must be "reasonably related" to the request [Order PO-2554].

[24] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request [Orders M-909, PO-2469, PO-2592].

[25] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control [Order MO-2185].

[26] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist [Order MO-2246].

[27] The university submits that the searches were conducted by experienced employees of the university who are familiar with the operation of, and filing systems within their respective offices. It states that it sought responsive records from the Protection Services Department, the Manager, Counseling and Personal Development Service, the Chair and Associate Dean of the Official Languages and Bilingualism Institute, the Human Resources Department and the Legal Services Department. As a result of individuals and/or a knowledgeable employee of the filing system of these individuals or departments performed a search for responsive records. The university

also provided affidavits describing in detail the searches conducted for responsive records.

[28] The appellant submits that a reasonable search was not conducted. The appellant states that:

I maintain that the institution has not produced even close to all the responsive documentation and as such, must have either not conducted a reasonable search, or destroyed responsive documentation prematurely. If the university is prepared to concede that responsive documentation was destroyed, and subsequently submit a list detailing the destroyed records, I may be prepared to accept that the University conducted a reasonable search, assuming that at least some of the documentation that I know to exist is accounted for.

### ***Analysis/Findings***

[29] At the end of mediation of this appeal, whether the university conducted a reasonable search for emails and incident reports remained an issue to be adjudicated. Based upon my review of the parties' representations, I find that the university has conducted a reasonable search for responsive records.

[30] The appellant has not provided a reasonable basis for me to conclude that additional responsive records exist. In particular, the appellant has not identified any responsive emails or incident reports that have not already been identified by the university. Nor has he identified any events which have not been linked to the identified records. I find that in this appeal, experienced university employees knowledgeable in the subject matter of the request expended a reasonable effort to locate records which are reasonably related to the request. Accordingly, I am upholding the university's search for responsive records.

### **C. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?**

[31] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,

- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[32] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

[33] Sections 2(2), (3) and (4) also relate to the definition of personal information. These sections state:

(2) Personal information does not include information about an individual who has been dead for more than thirty years.

(3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.



(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[34] To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225].

[35] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015, PO-2225 and MO-2344].

[36] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)].

[37] The university provided both confidential and non-confidential representations as to whether the records contain personal information. In its non-confidential representations, it submits that Records 1, 6, 8, 10, 18, 38 to 41, 55, 59, 60, 73 to 75, 81, 94, 101 to 104, 107 to 110, 112 to 114 and 122 to 132 contain "personal information" of the appellant and other identifiable individuals relating to a complaint made about the appellant to the university's Protection Services.

[38] The university submits that the personal information in the records at issue includes information about other identifiable individuals' educational history, these individuals' opinions and views with respect to the appellant and the situation that gave rise to the complaint, and both the complainant's and her father's personal contact information.

[39] The appellant submits that the records contain personal information relating primarily to him. He states that:

Any further information was provided in the context of a discussion about me and relates directly to me.

[40] The appellant also states that he is not seeking disclosure of surnames, email addresses, phone numbers, places of residence and mailing addresses contained in the records. As a result, I will not consider whether the personal privacy exemption applies to any such information.

***Analysis/Findings***

[41] Based upon my review of the records at issue, I agree with the university that these records contain personal information about the appellant and other identifiable individuals in their personal capacity. This information includes information relating to these individuals' educational history [paragraph (b)], personal opinions and views [paragraphs (e) and (g)], and personal addresses and telephone numbers [paragraph (d) of the definition of personal information in section 2(1)].

[42] The appellant has already received the personal information in the records that relates solely to him. The remaining personal information at issue is the personal information of the appellant and the complainant and/or her father.

**D. Does the discretionary exemption at section 49(a) in conjunction with the section 19 exemption apply to the information at issue?**

[43] Section 47(1) gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

[44] Section 49(a) reads:

A head may refuse to disclose to the individual to whom the information relates personal information,

where section 12, 13, 14, 14.1, 14.2, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information.

[45] Section 49(a) of the *Act* recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information [Order M-352].

[46] In this case, the institution relies on section 49(a) in conjunction with section 19. Section 19 of the *Act* states as follows:

A head may refuse to disclose a record,

- (a) that is subject to solicitor-client privilege;
- (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation; or

- (c) that was prepared by or for counsel employed or retained by an educational institution for use in giving legal advice or in contemplation of or for use in litigation.

[47] Section 19 contains two branches. Branch 1 arises from the common law and section 19(a). Branch 2 is a statutory privilege and arises from section 19(b), or in the case of an educational institution, from section 19(c). The institution must establish that at least one branch applies. The university relies on the common law and statutory solicitor-client communication privilege in sections 19(a) and (c).

[48] The university submits that:

- Records 1, 15, 18, 26, 27, 28, 29, 30, 31, 38, 39, 40, 41, 55 and 144 relate to legal advice being provided by the university's legal counsel to Protection Services regarding the handling of the incident involving the appellant.
- Records 14, 15, 16, 51, 52, 53, 161, 162 and 163 constitute part of a continuum of communications between the university's legal counsel, the Protection Services Director and the Assistant Director, Academic Labour Relations regarding the situation involving the appellant and the complainant.
- Records 17, 19, 20, 21, 22, 23, 24, 34, 35, 36, 42, 43, 44, 46, 46, 47, 48, 49, 50 and 108 consist of communications pertaining to the seeking of legal advice and its provision by the university's legal counsel regarding draft letters and responses to be sent on behalf of the Protection Services in relation to the situation involving the appellant. The draft letters and proposed responses were reviewed by the University legal counsel, who then advised Protection Services of the appropriate response to be sent to the concerned individuals.
- Records 59 and 60 consists of communications between the university's legal counsel and the Director of Protection Services in which the university's legal counsel apprised the Director of certain facts relating to the situation involving the appellant.
- Records 63, 64, 65, 66, 67 and 68 consist of legal advice being sought from the Protection Services Director and provided by the university's legal counsel in relation with the preparation of a meeting to be held with the appellant.

- Records 84, 86, 87, 88, 89, 90, 91, 92, 93, 100 and 145 consists of records where the university's legal counsel is requesting and receiving information from Protection Services in order to prepare an informed and accurate response to the appellant's counsel's questions.

[49] The appellant submits that the university's legal counsel sat as a member on the "Emergency Threat Assessment Team" and later took on a role of "mediator/facilitator" between the appellant and the complainant. He submits that the communication involving the university's legal counsel was likely wholly or partially in his role as "mediator/facilitator", rather than in the role of the university's legal counsel. The appellant also states that it is unlikely that confidentiality is implied when the communication in the records included several recipients, including colleagues in other departments and in such cases he may have been acting in a capacity other than legal counsel.

### ***Analysis/Findings***

[50] Solicitor-client communication privilege protects direct communications of a confidential nature between a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice [*Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.)].

[51] The rationale for this privilege is to ensure that a client may confide in his or her lawyer on a legal matter without reservation [Orders PO-2441, MO-2166 and MO-1925].

[52] The privilege applies to "a continuum of communications" between a solicitor and client:

. . . Where information is passed by the solicitor or client to the other as part of the continuum aimed at keeping both informed so that advice may be sought and given as required, privilege will attach [*Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.)].

[53] Confidentiality is an essential component of the privilege. Therefore, the institution must demonstrate that the communication was made in confidence, either expressly or by implication [*General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.)].

[54] Based upon my review of the records, I find that one portion of Records 1, 18, 38, 39, 40, 41, 55 and 144 contains solicitor-client advice and is subject to the section 19(a) solicitor-client privilege exemption. This one portion I have found to be subject to section 19(a) is the same information in each of these records. The privilege concerning this information in these records has not been waived. I will consider below

whether the university exercised its discretion in a proper manner under section 49(a) with respect to these records. I will also consider below whether the remainder of the information at issue in these records is subject to the personal privacy exemption in section 49(b).

[55] I also find that Records 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 34, 35, 36, 42, 43, 44, 45, 47, 59, 60, 63, 64, 65, 66, 67, 68, 84, 86, 87, 88, 89, 90, 91, 92, 93, 100, 145, 161, 162, 163, and 168 form part of the continuum of communication between the university's legal counsel and university staff for the purpose of the giving and receiving of legal advice and are subject to the section 19(a) solicitor-client privilege exemption.

[56] I also find that the records that I have found subject to section 19(a) are subject to section 19(c) as they were prepared by or for counsel employed by the university for use in giving legal advice. The privilege in these records has not been waived. I will consider below whether the university exercised its discretion in a proper manner under section 49(a) with respect to these records.

[57] However, I do not agree that Records 48 to 51 contain information that falls within section 19, as these records consist of emails sent by the appellant or on the appellant's behalf by another individual acting for him. The only other information contained in these emails does not contain solicitor-client privileged information. As no other exemptions have been claimed for these records, I will order them disclosed.

[58] Furthermore, I find that Records 52 and 53 are not subject to section 19. These records contain an email from the Director of Protection Services recounting a conversation he had with the appellant's representative. It was sent to both legal counsel and the investigator. Legal advice is neither being sought and no mandatory exemption applies nor given in this email. As no other exemptions have been claimed for these records, I will order them disclosed. In that regard, I note that these records only contain the personal information of the appellant and not the personal information of other identifiable individuals.

[59] In making these findings concerning Records 48 to 53, I have applied the approach of Adjudicator Frank DeVries in Order PO-2765<sup>1</sup> where he determined that certain records which were reviewed by legal counsel on behalf of an institution did not qualify for exemption under section 19, as they did not contain or refer to legal advice. He held that:

Previous orders have clearly stated that a record does not qualify for exemption under this section simply because it has been reviewed by a lawyer or because legal counsel has suggested that it should be revised in

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<sup>1</sup> See also Order PO-2895-I.

a particular manner (PO-1038), notwithstanding that particular suggestion to amend a document in a specific way might be privileged.

Furthermore, in PO-2115, former Assistant Commissioner Mitchinson reviewed the Ministry of the Environment's position that certain records were exempt under section 19 of the *Act*, and stated:

It is clear from the representations and the content of Record 2 that the Ministry's Legal Services Branch was consulted in the context of preparing the record. However, it does not necessarily follow that the record qualifies for exemption under section 19 for that reason. Merely having a lawyer review or comment on a document does not cloak that document with solicitor-client communication privilege.

. . .

In my view, a similar approach is appropriate in considering the application of section 19 to the withheld portions of [the Record] in this appeal.

In support of its position, the Ministry relies on references in the record that a particular position was taken "in consultation with the Ministry's Legal Services Branch". However, the Ministry does not identify what the specific legal advice was or whether it was accepted or rejected by the author, nor does it provide any supporting or separate documentation to confirm the nature of any legal advice requested or given. In my view, the representations themselves are not sufficient to support the section 19 exemption claim for the final three of the four withheld paragraphs on page 6. As far as the first withheld paragraph on page 6 is concerned, following the phrase "in consultation with the Ministry's Legal Services Branch" the author of Record 2 proceeds to identify the specific advice given by that Branch for one aspect of the information covered in the memorandum. In my view, this paragraph qualifies for exemption under section 19 for the same reasons as the withheld portions of page 2 of Record 1 outlined above.

I adopt the approach taken to this issue in these previous orders. On my review of the records and the information provided by the Ministry, the mere fact that these records were reviewed by counsel and that counsel may have provided input and suggested changes to the records, does not bring them within the ambit of section 19 of the Act. However, if information contained in the records would reveal solicitor-client privileged

information, such as confidential advice provided by legal counsel, that information would qualify for exemption under section 19 of the *Act*.

[60] I will now determine whether the remainder of the information at issue in the records that is not subject to section 49(a) in conjunction with section 19 is subject to the personal privacy exemptions in sections 49(b).

**E. Does the discretionary exemption at section 49(b) apply to the information at issue?**

[61] Remaining at issue are portions of Records 1, 10, 18, 38, 39, 40, 41, 55, 74, 75, and 144 and all of Records 6, 8, 25, 94, 101 to 104, 107 to 114, 122 to 132, and 147.

[62] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

[63] If the information falls within the scope of section 49(b), that does not end the matter. Despite this finding, the institution may exercise its discretion to disclose the information to the requester. This involves a weighing of the requester's right of access to his or her own personal information against the other individual's right to protection of their privacy.

[64] The university submits the records at issue contain the personal information of other individuals and consists of their personal contact information and educational history, as well as their personal opinions and views which are sensitive and which were supplied to the university in confidence. The university submits that the information at issue in the records falls within the invasion of personal privacy exemption in section 21(1)(f) of the *Act* as disclosure would constitute an unjustified invasion of the privacy of the complainant and her father. This section reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

[65] The appellant submits that the personal information in the records clearly relates to allegations made against him, conversations stemming from these allegations and the university's handling of these allegations and contain relevant situational details. He states that it is completely unreasonable to suggest that it is an unjustified invasion of the complainant's personal privacy to release these records when they clearly discuss the appellant's character at length and were provided willingly for the purpose of continuing a discussion regarding him.

[66] The appellant also states that he is not seeking disclosure of surnames, email addresses, phone numbers, places of residence and mailing addresses contained in the records. As a result, I will not consider whether the personal privacy exemption applies to this information.

### ***Analysis/Findings***

[67] Under section 49(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would constitute an “unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester.

[68] Sections 21(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold is met.

[69] If the information fits within any of paragraphs (a) to (e) of section 21(1), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b). In this appeal, the information does not fit paragraphs (a) to (e) of section 21(1).

[70] The factors and presumptions in sections 21(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of privacy under section 49(b). If any of paragraphs (a) to (d) of section 21(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under sections 21 or 49(b). If any of paragraphs (a) to (h) of section 21(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 49(b). In this appeal, section 21(4) does not apply. The presumption in section 21(3)(d) does apply to the educational history of the complainant. This section reads:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

relates to employment or educational history

[71] As section 21(3)(d) applies to the educational history in the records at issue, disclosure of this information is presumed to be an unjustified invasion of personal privacy under section 49(b). In *Grant v. Cropley*, [2001] O.J. 749, the Divisional Court said the Commissioner could:

. . . consider the criteria mentioned in s.21(3)(b) in determining, under s. 49(b), whether disclosure . . . would constitute an unjustified invasion of [a third party’s] personal privacy.



[72] As sections 21(3) and (4) do not apply to the remaining personal information, section 21(2) lists various factors that may be relevant in determining whether disclosure of this personal information would constitute an unjustified invasion of personal privacy [Order P-239].

[73] The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 21(2) [Order P-99].

[74] As the university refers to the sensitivity of the personal information in the records and argues that it was supplied in confidence, it appears to be relying on the factors that favour non-disclosure in sections 21(2)(f) and (h), which read:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (f) the personal information is highly sensitive;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and

[75] For section 21(2)(f) to apply, for the personal information to be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed [Orders PO-2518, PO-2617, MO-2262 and MO-2344].

[76] For section 21(2)(h) to apply, both the individual supplying the information and the recipient had to have had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. Thus, section 21(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation [Order PO-1670].

[77] The personal information at issue in the records relates to the complainant and her father. Based upon my review of this personal information, I find that there is a reasonable expectation of significant personal distress to the complainant and her father if the information is disclosed. Accordingly, I find that the consideration in section 21(2)(f) is a significant factor favouring non-disclosure.

[78] In Order PO-2967, Adjudicator Steve Faughnan considered the application of the factor in section 21(2)(h) in a case where a complaint was made against an appellant. In that order, Adjudicator Faughnan stated:

I accept that the context and the surrounding circumstances of the

University's investigation into the matter involving the appellant as a result of the complaints that were made are such that a reasonable person would expect that the information supplied in this context by at least the limited number of individuals who requested confidentiality, would be subject to a degree of confidentiality.<sup>2</sup> Having said this, however, past orders have determined that there are limits to the expectation of confidentiality in relation to information provided in the course of an investigation into workplace conduct.<sup>3</sup> In Order M-82, Inquiry Officer Holly Big Canoe stated the following with respect to the application of section 14(2)(h), the municipal equivalent to section 21(2)(h):

In my view, it is neither practical nor possible to guarantee complete confidentiality to each party during an internal investigation of an allegation of harassment in the workplace. If the parties to the complaint are to have any confidence in the process, respondents in such a complaint must be advised of what they are accused of and by whom to enable them to address the validity of the allegations.

In that decision, Inquiry Officer Big Canoe found that section 21(2)(h) applied, but that it was only relevant as a consideration with respect to "the information provided by individuals other than the appellant, and not in respect of information provided by the affected persons in direct response to the appellant's complaint."<sup>4</sup> Senior Adjudicator John Higgins reached the same conclusion in Order P-1014 that the factor in section 21(2)(h) applied to "all personal information provided by the witnesses and the complainant which pertains to individuals other than the appellant."

In Order PO-2916, Adjudicator Daphne Loukidelis adopted the reasoning set out in Orders M-82 and P-1014 and found that the factor favouring non-disclosure in section 21(2)(h) applies only to the personal information of the affected parties themselves, not the information or views they shared with the investigator respecting the subject matter of the investigation, which was intermingled with the views and opinions expressed about the requester in that appeal himself.

Although these orders deal with investigations into workplace conduct, given that the current appeal relates to investigations conducted by the

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<sup>2</sup> Order PO-1910.

<sup>3</sup> Orders M-82 and P-1014.

<sup>4</sup> Institution's application dismissed February 9, 1995 in *Hamilton (City) v. Ontario (Information and Privacy Commissioner)*, Hamilton Doc. D246/93 (Ont. Div. Ct.).

CCPS, the University, or the investigator I find that the reasoning applied in those orders is applicable to the current appeal. Accordingly, I find that the factor favouring privacy protection in section 21(2)(h) applies only to the personal information of the witnesses or complainants, and, unless it is so intertwined with their personal information that it can not be reasonably severed, the information they provided respecting the subject matter of the investigations.

[79] I find that the remaining personal information at issue is both the personal information of the appellant and that supplied by the complainant or her father. The personal information of the complainant and her father is so intertwined with the personal information of the appellant that it cannot be reasonably severed. Accordingly, I find that the factor in section 21(2)(h) applies in this case as the personal information of the complainant and her father was supplied in confidence. The factor in 21(2)(h) is a factor weighing strongly in favour of a finding that disclosure of the personal information in the records would constitute an unjustified invasion of personal privacy.

[80] Accordingly, I find that the factors in both sections 21(2)(f) and (h) apply and weigh against the disclosure of the personal information in the records, except for the information located at the last page of Record 94, which is a letter written by the appellant to the university. The factors in section 21(2)(f) and (h) do not apply to the disclosure of this information as the personal information is not highly sensitive and was not supplied by the complainant or her father in confidence. Disclosure of this information would not constitute an unjustified invasion of the personal privacy of the complainant or her father and I will order this information disclosed to the appellant.

[81] Concerning the remaining information at issue, I note that in his representations the appellant suggests that it is unfair and unreasonable to withhold information about him. He has not suggested that he is unaware of the allegations made against him by the complainant. In fact, the appellant has been provided with a detailed incident report and other information from the records containing the allegations made by the complainant against him. This is distinguishable from the situation in Order PO-1767. In that order, Adjudicator Donald Hale stated that:

The question of fairness and [the appellant's] ability to respond to the allegations made against him are significant factors favouring the disclosure of the information contained in the records. ....Without access to the information in the records, it is difficult, if not impossible, for him to do so.

Adjudicator Cropley commented further in Order PO-1750 on the situation where a requester is seeking access to information provided to an institution by a third party which relates primarily to the requester. She held that:

However, in the circumstances of this appeal, the fact that the information is actually about the appellant is a relevant consideration. In this regard, I find that there is an inherent fairness issue in circumstances where one individual provides detailed personal information about another individual to a government body. In my view, this goes to the autonomy of the individual and his ability to control the dissemination and use of his own personal information, and is reflected in section 1(b) of the *Act* as one of the fundamental purposes of the *Act*. This section states:

The purposes of this Act are,

(b) to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

In my view, this conclusion is also applicable to the present appeal. I find this to be a significant factor favouring the disclosure of these records, though it is not among the listed considerations in section 21(2). I give this factor a great deal of weight when balancing the appellant's right of access to this information against the privacy protection of the affected persons and other identifiable individuals.

#### Balancing the Considerations

In Order PO-1756, I had occasion to address a similar fact situation involving a request for information provided to the Ministry by a third party regarding the requester's suitability to be an adoptive parent. In that case, I concluded that:

Balancing the factors favouring the protection of privacy in section 21(2) against the considerations favouring access, I find that the factors favouring the non-disclosure of these records are more compelling. The information was provided to the Ministry by the affected person with a clearly-stated expectation of confidentiality and makes reference to a number of highly sensitive facts relating to the affected person, the appellant and to other identifiable individuals. Because of the nature of the personal information in these records, particularly that which relates to other identifiable

individuals, I must find that the considerations favouring privacy protection outweigh those which favour the appellant's right of access to them.

[82] In Order P-1014, Inquiry Officer John Higgins discussed a similar unlisted factor as that raised by the appellant which he described as "adequate degree of disclosure". In that order, he stated that:

...this factor arises as a result of the preamble to section 21(2), which requires consideration of "all the relevant circumstances". This factor, which favours disclosure, has not been referred to in previous orders. It relates to the fairness of administrative processes, and the need for a degree of disclosure to the parties which is consistent with the principles of natural justice...

In upholding the Inquiry Officer's finding in Order M-82, the Divisional Court<sup>5</sup> stated that, without adequate disclosure, "the complainant might be left wondering whether his complaint had been properly investigated". In my view, adequate disclosure is a fundamental requirement in a proceeding such as a WDHP [Ontario Public Service Workplace Discrimination and Harassment Prevention] investigation. Both the complainant and the respondent in such a proceeding are entitled to a degree of disclosure which permits them to understand the finding that was made and the reasons for the decision.

In a similar vein, individuals such as the appellant, who face accusations which result in administrative or judicial proceedings, are entitled to know the case which has been made against them.

In the circumstances of this appeal, I find that the factor requiring adequate disclosure applies to the personal information in the records (including the undisclosed witness statements) which is directly related to the subject matter of the investigation, the investigator's findings and the Ministry's final disposition of the matter.

[83] In this appeal, unlike the situations in Orders P-1014, PO-1750 and PO-1767, the appellant is aware of the allegations made against him and was given the ability to respond to these allegations. Accordingly, I find that it is not unreasonable or unfair that he is not being provided with the withheld personal information in the records that is related to the complaint made against him. Accordingly, the unlisted factor raised by the appellant carries little weight in favour of disclosure.

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<sup>5</sup> *Hamilton (City) v. Ontario (Information and Privacy Commissioner)*, cited at footnote 4.

[84] Therefore, taking into consideration the findings in the orders considered above<sup>6</sup> and balancing the factors favouring the protection of privacy in sections 21(2)(f) and (h) against the consideration raised by the appellant favouring access, I find that the factors favouring the non-disclosure of the personal information in the records are more compelling. The information was provided to the university by the complainant and her father with a clearly-stated expectation of confidentiality and makes reference to a number of highly sensitive facts relating to the complainant. Because of the nature of the personal information in the records and the fact that the appellant has been provided with a significant amount of information concerning the allegations made against him by the complainant, I must find that the considerations favouring privacy protection outweigh those which favour the appellant's right of access to them. Accordingly, subject to my review of the university's exercise of discretion, the personal information at issue in the records is exempt under section 49(b).

## **EXERCISE OF DISCRETION**

### **F. Did the university exercise its discretion under sections 49(a) and (b)? If so, should this office uphold the exercise of discretion?**

[85] The sections 49(a) and (b) exemptions are discretionary, and permit an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

[86] In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations.

[87] In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations [Order MO-1573]. This office may not, however, substitute its own discretion for that of the institution [section 54(2)].

[88] The university submits that when exercising its discretion it took into consideration the purpose of the *Act*, whether the requester was seeking his own personal information, whether the requester had a sympathetic or compelling need to

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<sup>6</sup> Orders PO-1756, PO-1767, PO-2916, PO-2967.

receive the information and whether disclosure would increase public confidence in the operation of the university.

[89] It states that the records for which it applied section 19 represent either a communication of a confidential nature between a solicitor and client for the purpose of providing advice, or the receipt of confidential information by a solicitor in order for the solicitor to formulate advice on an on-going legal matter.

[90] Concerning the records for which it applied the personal privacy exemption, it submits that the university is not in the practice of disclosing personal information about an individual to someone other than the individual to whom the personal information relates without consent. It also states that there is no sympathetic or compelling need for the requester to receive personal information relating to the complainant and her father.

[91] The university states that it is important that it is able to seek legal advice or exchange confidential communications with its legal counsel in the furtherance of such advice at present and in the future.

[92] The appellant submits that as he is seeking his own personal information and information directly relating to him and accusations made against him, he has the right to view all files maintained in his name. He states that this right is in accordance with the *Act* which upholds that "individuals should have a right of access to their own personal information" and that "exemptions from the right of access should be limited and specific."

[93] The appellant feels that the university acted in bad faith to withhold his personal information, despite the fact that the university relied on this information to justify excluding him from university activities and withholding services from him that were offered to other students.

### ***Analysis/Findings***

[94] Based upon my review of the parties' representations and considering the fact that the remaining records contain the personal information of identifiable individuals other than the appellant, I find that the university exercised its discretion in good faith.

[95] In the circumstances of this appeal, I find that there is no sympathetic or compelling need for the appellant to receive the information at issue in the records and that the privacy of the complainant and her father should be protected.

[96] In exercising its discretion, I find that the university exercised its discretion in a proper manner, taking into account relevant considerations and not taking into account

irrelevant considerations. Accordingly, I uphold the university's exercise of discretion under sections 49(a) and (b).

**ORDER:**

1. I order the university to disclose to the appellant Records 48 to 53 and the appellant's letter at the last page of Record 94 by **January 10, 2012.**
2. I uphold the university's decision to withhold the remaining information in the records.
3. The French information at issue in of Records 40, 41, 150, 151, 152, and 153 is non-responsive to the appellant's request.
4. I uphold the university's search for responsive records.
5. In order to verify compliance with order provision 1, I reserve the right to require the university to provide me with a copy of the records provided to the appellant.
6. I remain seized of this appeal in order to deal with any other outstanding issues arising from this order.

Original Signed by: \_\_\_\_\_

Diane Smith  
Adjudicator

December 19, 2011 \_\_\_\_\_



**APPENDIX**

**Index of Records at Issue**

<b>No.</b>	<b>Date</b>	<b>From</b>	<b>To</b>	<b>CC</b>	<b>Subject</b>	<b>Release</b>	<b>Section(s) Applied</b>
1	11/15/2009 14:09	Employee - Protection Services			Protection Services Report	Y Partial	S.19 & 49(a), S.21 & 49(b)
6	11/16/2009 13:06	Investigator	Individual	Manager – SASS (Student Academic Success Service), Director - Protection Services	Report Number [#]	N	S.21 & 49(b)
8	11/16/2009 18:55	Individual	Investigator	Individual, Manager - SASS, Director - Protections Services	Report Number [#]	N	S.21 & 49(b)
10	11/17/2009 19:50	Director - Protection Services	Lawyer		Security Report, Ref [#] Others Harassment	Y Partial	S. 21 & 49(b)
14	11/25/2009 15:32	Director - Protection Services	Lawyer, Employee - Health Services, Manager - SASS	Investigator, Assistant Director - Human Resources	Appellant	N	S.19 & 49(a)
15	11/25/2009 15:37	Lawyer	Director - Protection Services, Employee - Health Services, Manager - SASS	Investigator, Assistant Director - Human Resources	Appellant	N	S.19 & 49(a)

No.	Date	From	To	CC	Subject	Release	Section(s) Applied
16	11/26/2009 11:48	Lawyer	Director - Protection Services, Employee - Health Services, Manager - SASS, Assistant Director - Human Resources	Investigator	Appellant	N	S.19 & 49(a)
17	11/27/2009 10:28	Investigator	Assistant Director - Protection Services		Letter... [#]	N	S.19 & 49(a)
18	11/27/2009 11:22	Investigator	Lawyer, Employee - Health Services, Manager - SASS	Director - Protection Services, Assistant Director - Protection Services	Security Report, Ref [#] Others Harassment	Y Partial	S.19 & 49(a), S.21 & 49(b)
19	11/27/2009 12:18	Assistant Director - Protection Services	Investigator, Director - Protection Services, Lawyer		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)
20	11/27/2009 12:48	Investigator	Assistant Director - Protection Services, Director - Protection Services, Lawyer		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)
21	11/27/2009 12:50	Lawyer	Investigator, Assistant Director - Protection		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)

No.	Date	From	To	CC	Subject	Release	Section(s) Applied
			Services, Director - Protection Services				
22	11/27/2009 14:40	Lawyer	Assistant Director - Protection Services, Investigator, Director - Protection Services		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)
23	11/27/2009 14:53	Investigator	Lawyer, Assistant Director - Protection Services, Director - Protection Services		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)
24	11/27/2009 15:06	Investigator	Lawyer, Assistant Director - Protection Services, Director - Protection Services		DRAFT letter to Individual	N	S.19 & 49(a), S.21 & 49(b)
25	11/30/2009 6:23	Investigator	Director - Protection Services, Lawyer	Assistant Director - Protection Services	Protection Services incident	N	S.21 & 49(b)
26	11/30/2009 9:00	Lawyer	Investigator, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)
27	11/30/2009 11:39	Lawyer	Investigator, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)

No.	Date	From	To	CC	Subject	Release	Section(s) Applied
28	11/30/2009 11:46	Investigator	Lawyer, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)
29	11/30/2009 11:51	Investigator	Lawyer, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)
30	11/30/2009 15:46	Lawyer	Investigator, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)
31	12/1/2009 8:55	Investigator	Lawyer, Director - Protection Services	Assistant Director - Protection Services	Protection Services incident	N	S.19 & 49(a), S.21 & 49(b)
34	12/3/2009 16:24	Lawyer	Director - Protection Services	Manager - SASS	Individual and Appellant	N	S.19 & 49(a)
35	12/3/2009 16:25	Director - Protection Services	Lawyer	Manager - SASS	Individual and Appellant	N	S.19 & 49(a)
36	12/3/2009 16:34	Director - Protection Services	Lawyer		Individual and Appellant	N	S.19 & 49(a)
38	12/4/2009 9:26	Investigator	Director - Protection Services, Lawyer		Security Report, Ref [#] Others Harassment	Y Partial	S.19 & 49(a), S.21 & 49(b)
39	12/4/2009 18:24	Lawyer	Director - Protection Services	Investigator	Security Report, Ref [#] Others Harassment	Y Partial	S.19 & 49(a), S.21 & 49(b)
40	12/4/2009 18:31	Lawyer	Director - Protection Services		Security Report, Ref [#] Others Harassment	Y Partial	S.19 &49(a), S.21 & 49(b) Non- responsive

<b>No.</b>	<b>Date</b>	<b>From</b>	<b>To</b>	<b>CC</b>	<b>Subject</b>	<b>Release</b>	<b>Section(s) Applied</b>
41	12/4/2009 18:39	Director - Protection Services	Lawyer		Security Report, Ref [#] Others Harassment	Y Partial	S.19 &49(a), S.21 & 49(b) Non- responsive
42	12/4/2009 11:26	Director - Protection Services	Lawyer		Individual and Appellant	N	S.19 & 49(a)
43	12/6/2009 11:44	Director - Protection Services	Lawyer		Appellant (Privileged and confidential)	N	S.19 & 49(a)
44	12/6/2009 18:55	Lawyer	Director - Protection Services		Appellant (Privileged and confidential)	N	S.19 & 49(a)
45	12/6/2009 18:58	Director - Protection Services	Lawyer		Appellant (Privileged and confidential)	N	S.19 & 49(a)
47	12/7/2009 7:49	Director - Protection Services	Lawyer		Individual and Appellant	N	S.19 & 49(a)
48	12/7/2009 16:08	Director - Protection Services	Lawyer		Appellant and Individual	N	S.19 & 49(a)
49	12/7/2009 16:22	Director - Protection Services	Lawyer		Appellant	N	S.19 & 49(a)
50	12/7/2009 16:25	Lawyer	Director - Protection Services		Appellant and Individual	N	S.19 & 49(a)
51	12/8/2009 5:43	Director - Protection Services	Lawyer		Appellant	N	S.19 & 49(a)
52	12/8/2009 10:25	Director - Protection Services	Lawyer	Investigator	Conversation with Appellant	N	S.19 & 49(a)
53	12/8/2009 13:29	Lawyer	Director - Protection Services		Conversation with Appellant	N	S.19 & 49(a)

<b>No.</b>	<b>Date</b>	<b>From</b>	<b>To</b>	<b>CC</b>	<b>Subject</b>	<b>Release</b>	<b>Section(s) Applied</b>
55	12/8/2009 16:05	Director - Protection Services	Lawyer		Security Report, Ref [#] Others Harassment	Y Partial	S.19 & 49(a) S.21 & 49(b)
59	12/9/2009 18:18	Lawyer	Director - Protection Services		Individual/Appellant	N	S.19 & 49(a) S.21 & 49(b)
60	12/9/2009 19:01	Director - Protection Services	Lawyer		Individual/Appellant	N	S.19 & 49(a) S.21 & 49(b)
63	12/10/2009 13:49	Director - Protection Services	Lawyer		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)
64	12/10/2009 17:46	Lawyer	Director - Protection Services		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)
65	12/11/2009 11:16	Lawyer	Director - Protection Services		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)
66	12/11/2009 11:30	Director - Protection Services	Lawyer		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)
67	12/11/2009 13:04	Lawyer	Director - Protection Services		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)
68	12/11/2009 13:14	Director - Protection Services	Lawyer		Informations qui pourraient être divulguées demain lors de la rencontre avec Appellant	N	S.19 & 49(a)

No.	Date	From	To	CC	Subject	Release	Section(s) Applied
73	12/11/2009 19:23	Lawyer	Individual		Letter to Individual	Y Partial	S.21
74	12/11/2009 20:41	Individual	Lawyer		Re: Fw: Letter to Individual	Y Partial	S.21 & 49(b)
75	12/11/2009 21:11	Lawyer	Individual		Re: Fw: Letter to Individual	Y Partial	S.21 & 49(b)
81	12/18/2009 17:35	Lawyer			Phone numbers	Y Partial	S.21
84	12/21/2009 17:44	Lawyer	Director - Protection Services, Investigator		Appellant	N	S.19 & 49(a)
86	12/21/2009 18:06	Director - Protection Services	Lawyer		Appellant	N	S.19 & 49(a)
87	12/21/2009 18:20	Director - Protection Services	Lawyer		FW: Security Report, Ref [#] Others Harassment	N	S.19 & 49(a)
88	12/21/2009 18:26	Director - Protection Services	Lawyer		Autre version après discussion avec Individual	N	S.19 & 49(a)
89	12/21/2009 19:09	Lawyer	Director - Protection Services		Re: Autre version après discussion avec Individual	N	S.19 & 49(a)
90	12/21/2009 19:11	Director - Protection Services	Lawyer		Re: Autre version après discussion avec Individual	N	S.19 & 49(a)
91	12/21/2009 19:12	Lawyer	Director - Protection Services		Re: Security Report, Ref [#] Others Harassment	N	S.19 & 49(a)
92	12/21/2009 19:18	Director - Protection Services	Lawyer		Re: Security Report, Ref [#] Others Harassment	N	S.19 & 49(a)

No.	Date	From	To	CC	Subject	Release	Section(s) Applied
93	12/21/2009 19:18	Lawyer	Director - Protection Services		Re: Security Report, Ref [#] Others Harassment	N	S.19 & 49(a)
94	12/22/2009 14:13	Professor	Lawyer		Fwd; Re: Individual CONFIDENTIAL	N	S. 21 & 49(b)
100	1/5/2009 12:52	Lawyer	Investigator		FW: Security Report, Ref [#] Others Harassment	N	S.19 & 49(a)
101	1/6/2010 16:08	Lawyer	Individual		Appellant	N	S.21 & 49 (b)
102	1/6/2010 21:47	Individual	Lawyer	Individual	confidential - on behalf of Individual	N	S.21 & 49(b)
103	1/6/2010 21:47	Individual	Lawyer	Individual	confidential - on behalf of Individual	N	S.21 & 49(b)
104	1/6/2010 22:39	Lawyer	Individual	Individual	Re: confidential - on behalf of Individual	N	S.21 & 49(b)
107	1/11/2010 11:11	Lawyer	Individual	Individual	Re: confidential - on behalf of Individual	N	S.21 & 49(b)
108	1/12/2010 20:44	Individual	Lawyer		Fwd: exam	N	S.21 & 49(b)
109	1/12/2010 22:24	Individual	Lawyer		Re: exam	N	S.21 & 49(b)
110	1/12/2010 22:25	Lawyer	Individual		Re: Fwd: exam	N	S.21 & 49(b)
112	1/13/2010 11:54	Individual	Lawyer	Individual	Re: exam	N	S.21 & 49(b)
113	1/13/2010 12:46	Lawyer	Individual	Individual	Re: exam	N	S.21 & 49(b)
114	1/14/2010 15:00	Lawyer	Individual	Individual	Re: exam	N	S.21 & 49(b)
122	1/17/2010 13:56	Lawyer	Individuals	Individual	Re: exam	N	S.21 & 49(b)
123	1/17/2010 22:10	Individual	Lawyer	Individuals	Re: exam	N	S.21 & 49(b)
124	1/17/2010 22:48	Lawyer	Individual	Individuals	Re: exam	N	S.21 & 49(b)



No.	Date	From	To	CC	Subject	Release	Section(s) Applied
125	1/17/2010 22:50	Individual	Lawyer	Individuals	Re: exam	N	S.21 & 49(b)
126	1/17/2010 23:21	Lawyer	Individual	Individuals	Re: exam	N	S.21 & 49(b)
127	1/18/2010 6:27	Individual	Lawyer	Individuals	Re: exam	N	S.21 & 49(b)
128	1/18/2010 14:32	Lawyer	Individual	Individual	Report	N	S.21 & 49(b)
129	1/18/2010 22:48	Individual	Lawyer		Fwd: Re: Report	N	S.21 & 49(b)
130	1/18/2010 23:11	Individual	Lawyer		Re: Fwd: Report	N	S.21 & 49(b)
131	1/18/2010 23:17	Lawyer	Individual	Individual	RE: Fwd: Re: Report	N	S.21 & 49(b)
132	1/19/2010 0:29	Lawyer	Individual		RE: Fwd: Re: Report	N	S.21 & 49(b)
142	1/20/2010 18:13	Lawyer	Director - Protection Services, Investigator		Appellant	Y	
143	1/20/2010 18:15	Lawyer	Lawyer		Appellant	Y	
144	1/21/2010 7:11	Investigator	Lawyer		Security Report, Ref [#] Others Harassment	Y Partial	S.19 & 49(a) S.21 & 49(b)
145	1/26/2010 13:28	Lawyer	Director - Protection Services		Appellant	N	S.19 & 49(a)
147	1/26/2010 17:57	Lawyer	Individuals		Report	N	S.21 & 49(b)
150	2/24/2010 15:25	Lawyer	Director - Protection Services		Appellant	Y Partial	Non-responsive
151	2/24/2010 15:29	Lawyer	Director - Protection Services		Appellant	Y Partial	Non-responsive
152	2/24/2010 15:32	Director - Protection Services	Lawyer		Appellant	Y Partial	Non-responsive

<b>No.</b>	<b>Date</b>	<b>From</b>	<b>To</b>	<b>CC</b>	<b>Subject</b>	<b>Release</b>	<b>Section(s) Applied</b>
153	2/24/2010 15:37	Director - Protection Services	Lawyer		Appellant	Y Partial	Non- responsive
161	3/26/2010 10:26	Director - Human Resources	Lawyer		dossier litigieux	N	S.19 & 49(a)
162	3/26/2010 10:28	Lawyer	Director - Human Resources		Re: dossier litigieux	N	S.19 & 49(a)
163	3/31/2010 11:35	Director - Human Resources	Vice- President Academic and Provost	Lawyer, Coordinator - Human Resources	meeting with Appellant	N	S.19 & 49(a)
168	11/27/2009 12:18	Assistant Director - Protection Services	Investigator, Director - Protection Services, Lawyer		Draft letter to Appellant	N	S.19 & 49(a)