

Information and Privacy Commissioner,  
Ontario, Canada



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

---

## ORDER PO-3312

Appeal PA10-38

University of Ottawa

February 27, 2014

**Summary:** The appellant submitted an access request to the University of Ottawa for all records about him that were sent to or received by specific individuals and offices. The university located responsive records, which consist mainly of email chains between various university officials, the university's legal counsel and other individuals. It provided the appellant with partial access to these records, but claimed that some were excluded from the *Freedom of Information and Protection of Privacy Act* under section 65(6) (labour relations and employment records) or exempt under section 49(a) read in conjunction with section 19(c) (solicitor-client privilege), or under sections 21(1) and 49(b) (personal privacy). It also claimed that some information in these records is not responsive to the appellant's request.

In this appeal, there are 197 records containing a total of more than 1,100 pages that remain at issue. The adjudicator finds that some records are excluded from the *Act* under section 65(6)3 and that other records or parts of records qualify for exemption under section 49(a), read in conjunction with section 19(c), and under section 49(b). However, he finds that some information in the records does not qualify for exemption under these provisions, and it must, therefore, be disclosed to the appellant. In addition, although he upholds the university's claim that some information in the records is not responsive to the appellant's request, he finds that other information is responsive and must also be disclosed. He orders the university to disclose additional information from 20 records to the appellant.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, ss. 2(1) (definition of "personal information"), 2(3), 10(2), 19(c), 21(1), 49(a), 49(b) and 65(6).

**Orders and Investigation Reports Considered:** Orders PO-2909-I and PO-2852-I.

**OVERVIEW:**

[1] The appellant submitted an access request to the University of Ottawa (the university) under the *Freedom of Information and Protection of Privacy Act (FIPPA or the Act)* for the following:

All records about me, except emails sent by me, including records sent and/or received by:

- 1) University of Ottawa Marketing and Communication Services
- 2) University of Ottawa Protection Services, including my "file" (compilation of records) stored at Protection Services, and including any videos or pictures included in this file, including pictures/videos taken by surveillance cameras.
- 3) Dean of Graduate Studies Gary Slater, and his office.
- 4) Dean of Science, André E. Lalonde, and his office.
- 5) Former Vice-President Academic, Robert Major, and his office.
- 6) Former VP Gov. Nathalie Des Rosiers, and her office and current VP Gov. Diane Davidson and her office.
- 7) Legal Counsel Alain Roussy, and his office.
- 8) President Allan Rock, and his office.
- 9) Physics department Chairman Bela Joos, and his office.

This request covers the time period from November 10, 2008 to December 3, 2009.

[2] By way of background, the appellant was registered in a master's program at the university. However, the university suspended and later dismissed the professor who was to act as his supervisor. The appellant and two other individuals who were affected by the university's actions against that professor filed a civil suit against the university. In addition, the dismissed professor filed labour relations grievances against the university relating to his dismissal and other matters under the applicable collective agreement.

[3] The university located 329 records that are responsive to the appellant's broad request. These records, which total several thousand pages, are largely made up of email chains between various university officials, the university's internal and external legal counsel and other individuals.

[4] The university sent the appellant a decision letter that provided him with access to some records and parts of records, but denied access to the remaining records, either in whole or in part, under the following provisions:

- the exclusion in section 65(6) (labour relations and employment records);
- the discretionary exemption in section 49(a), read in conjunction with section 19 (solicitor-client privilege); and
- the discretionary exemption in section 49(b) and the mandatory exemption in section 21(1) (personal privacy).

[5] In addition, it denied access to a small number of records under the discretionary exemption in section 14(1) (law enforcement) and the mandatory exemption in section 17(1) (third party information). It also claimed that some information in the records is not responsive to the appellant's request.

[6] The university also provided the appellant with an index of records that listed them in numerical order, provided a brief description of each record, and indicated which exclusion or exemption from the *Act* it was claiming for those records that it had decided to fully or partly withhold.

[7] The appellant appealed the university's decision to the Information and Privacy Commissioner of Ontario (IPC). During the mediation stage of the appeal process, the university issued a supplementary decision letter to the appellant, stating that it was now relying on the discretionary exemption in section 19 to deny access to the information it had withheld from records 35-40 and 42-43, and the discretionary exemption in section 49(b) to deny access to the information it had withheld from record 46. Consequently, whether the university should be allowed to make late exemption claims for those records is an issue in this appeal.

[8] In addition, the appellant advised the mediator that he is only seeking access to the following records:

- records 35-44, 46-47, 49, 54-56, 59-73, 75-80, 86, 91, 99, 100, 103, 106, 108-111, 116, 119, 129, 136, 142, 144, 175, 176, 178, 185 and 187-189 (withheld in in part); and
- records 193-329 (withheld in full).

[9] This appeal was not resolved during mediation and was moved to adjudication for an inquiry. The adjudicator assigned to the appeal sought representations from the university and the appellant. Both parties submitted representations in response. Parts of the university's representations were withheld from the appellant because they fall within the confidentiality criteria in IPC *Practice Direction Number 7*. The adjudicator also contacted the dismissed professor, who consented to the disclosure of his personal information in the records to the appellant.

[10] In its representations, the university withdrew its claim that the discretionary exemption in section 14(1) and the mandatory exemption in section 17(1) apply to some records. Consequently, those exemptions are no longer at issue in this appeal. In addition, after receiving a copy of the appellant's representations during the inquiry, the university issued a revised decision letter to the appellant in which it disclosed one additional record to him and withdrew its section 65(6) exclusion claim and section 21(1) exemption claim for some records.

[11] This appeal was transferred to me to complete the adjudication process and render a decision.

## **RECORDS:**

[12] There are 197 records containing a total of more than 1,100 pages that remain at issue in this appeal. The university has withheld some of these records in full, and others in part. There is duplication in the records (i.e., some emails appear more than once in different email chains). In addition, some records include emails that the appellant sent to the university, which he is not seeking and are, therefore, not at issue in this appeal.

[13] The records remaining at issue are summarized in a chart that is attached to this order as an appendix. This chart is based on the university's last revised index of records, the mediator's report and my review of the records.

## **ISSUES:**

- A. Does section 65(6) exclude the records from the scope of the *Act*?
- B. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- C. Should the university be permitted to make late exemption claims for some records?
- 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) or the mandatory exemption at section 21(1) apply to the information at issue?
- F. Is some information in the records not responsive to the appellant's request?
- G. Did the university exercise its discretion under sections 49(a) and (b)? If so, should the IPC uphold this exercise of discretion?

## **DISCUSSION:**

### **LABOUR RELATIONS AND EMPLOYMENT RECORDS**

#### **A. Does section 65(6) exclude the records from the scope of the *Act*?**

[14] The university claims that the following records are excluded from the *Act* under sections 65(6): records 54-56, 59-61 (in part), 62-73, 75-76, 103, 142 (in part), 281, and 310-329.

[15] Section 65(6) states:

Subject to subsection (7), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.
2. Negotiations or anticipated negotiations relating to labour relations or to the employment of a person by the institution between the institution and a person, bargaining agent or party to a proceeding or an anticipated proceeding.
3. Meetings, consultations, discussions or communications about labour relations or employment related matters in which the institution has an interest.

[16] If section 65(6) applies to the records, and none of the exceptions found in section 65(7)<sup>1</sup> applies, the records are excluded from the scope of the *Act*.

[17] IPC orders had previously found that the term "in relation to" in section 65(6) means "for the purpose of, as a result of, or substantially connected to."<sup>2</sup> However, in the 2010 decision, *Ontario (Attorney General) v. Toronto Star*,<sup>3</sup> the Divisional Court addressed the meaning of the term "relating to" in section 65(5.2) of the *Act* and found that it requires "some connection" between the records and the subject matter of that section. It rejected the imputation of a "substantial connection" requirement into the meaning of "relating to."

[18] The IPC has concluded that the Divisional Court's findings in *Toronto Star* also apply to the words, "in relation to" in section 65(6).<sup>4</sup> Consequently, for section 65(6) to apply, an institution must show that there is "some connection" (not a "substantial connection") between the records and the subjects mentioned in paragraph 1, 2 or 3 of this section.

[19] The type of records excluded from the *Act* by section 65(6) are documents related to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue.<sup>5</sup>

[20] The term "labour relations" refers to the collective bargaining relationship between an institution and its employees, as governed by collective bargaining legislation, or to analogous relationships. The meaning of "labour relations" is not restricted to employer-employee relationships.<sup>6</sup>

---

<sup>1</sup> Section 65(7) states:

This Act applies to the following records:

1. An agreement between an institution and a trade union.
2. An agreement between an institution and one or more employees which ends a proceeding before a court, tribunal or other entity relating to labour relations or to employment-related matters.
3. An agreement between an institution and one or more employees resulting from negotiations about employment-related matters between the institution and the employee or employees.
4. An expense account submitted by an employee of an institution to that institution for the purpose of seeking reimbursement for expenses incurred by the employee in his or her employment.

<sup>2</sup> E.g., see Order P-1223.

<sup>3</sup> 2010 ONSC 991 (Div. Ct.).

<sup>4</sup> Order MO-2589.

<sup>5</sup> *Ontario (Ministry of Correctional Services) v. Goodis* (2008), 89 O.R. (3d) 457, [2008] O.J. No. 289 (Div. Ct.).

<sup>6</sup> *Ontario (Minister of Health and Long-Term Care) v. Ontario (Assistant Information and Privacy Commissioner)*, [2003] O.J. No. 4123 (C.A.). See also Order PO-2157.

[21] The term "employment of a person" refers to the relationship between an employer and an employee. The term "employment-related matters" refers to human resources or staff relations issues arising from the relationship between an employer and employees that do not arise out of a collective bargaining relationship.<sup>7</sup>

[22] The university claims that the above records are excluded from the *Act* under sections 65(6)1 and 3. I will start my analysis by considering whether the exclusion in 65(6)3 applies to the records. For section 65(6)3 to apply, the university must establish that:

1. the records were collected, prepared, maintained or used by the university or on its behalf;
2. this collection, preparation, maintenance or usage was in relation to meetings, consultations, discussions or communications; and
3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the university has an interest.

[23] I am satisfied that all of these records, which are email chains, were collected, prepared, maintained or used by the university, and that this collection, preparation, maintenance or usage was in relation to discussions or communications between university officials about various matters. Consequently, I find that parts 1 and 2 of the section 65(6)3 test have been met.

[24] To satisfy part 3 of the section 65(6)3 test, the university must establish that the discussions or communications that took place were about labour relations or employment-related matters in which the university has an interest.

[25] As noted above, the appellant was registered in a master's program at the university. However, the university suspended and later dismissed the professor who was to act as his supervisor. After the professor was suspended, the appellant asked the Dean of the Faculty of Science to allow him to obtain a computer and some scientific literature from the suspended professor's laboratory and office, which the university had locked. Some emails that the university claims are excluded under section 65(6)3 contain discussions and communications between university officials about how to respond to the appellant's request. Other emails discuss matters relating to a Faculty Teaching Personnel Committee (FTPC) meeting about the suspended professor or refer to the labour relations grievances that he filed against the university.

---

<sup>7</sup> Order PO-2157.

[26] The university submits the suspended professor was a full-time faculty member, and that the discussions and communications that took place in these emails were about labour relations or employment-related matters. It states:

The relationship between the [university] and its full-time professors is governed by the Collective Agreement [with] the Association of Professors of the University of Ottawa (APUO).

. . . .

With respect to the [withheld records], the university was at all times acting as an employer and terms and conditions of employment were at issue. The records also record/contain advice provided to management regarding labour relations.

[27] In my view, the discussions and communications that took place between university officials in the withheld emails are about labour relations matters in which the university has an interest, as required by part 3 of the section 65(6)3 test. The professor's suspension, which underpins all of these discussions and communications, was governed by the collective agreement between the university and the APUO, the union which represents full-time professors. Moreover, the records themselves reveal that the professor has filed grievances under the collective agreement because of the university's actions against him. In my view, his suspension was a labour relations matter, as contemplated by the wording of section 65(6)3. In addition, the university clearly has an interest in matters relating to its own workforce, which includes full-time professors.

[28] The appellant, however, disputes that all of these emails are excluded from the *Act* under section 65(6). He cites a passage from Order PO-2852-I, in which Adjudicator Diane Smith stated:

The records concern the appellant, not the individual who is identified in the records and who has an on-going labour relations and employment-related dispute with the University. The University has not identified the relationship between these emails and this ongoing dispute concerning the identified individual in its representations. Based upon my review of the records, I find that there is no more than a superficial connection between the creation, preparation, maintenance and/or use of these records and the labour relations or employment-related proceedings or anticipated proceedings . . .



[29] He submits that a similar analytical approach should be taken to the records at issue in this appeal. In particular, he submits that records 54-56 and 62-79 or parts of these records are not excluded from the *Act* under section 65(6):

Regarding S. 65(6), this is not a labour relations matter, but an academic matter related to my educational position at the university.

In the alternative, the 65(6) exclusion can only be applied to certain parts directly related to labour relations matters, and cannot exclude the information about me.

[30] I do not find the appellant's submissions persuasive. The appellant's request that he be given access to a computer and scientific materials from the suspended professor's laboratory and office is closely connected to the university's decision to suspend that professor, which is a labour relations matter. The email exchanges between various university officials discuss the appellant's request, but it is clear that the professor's suspension underlies these discussions. In addition, even though the discussions in other email exchanges about the FTPC meeting regarding the suspended professor contain references to the appellant, these discussions are mainly about labour relations matters relating to the suspended professor.

[31] The university is only required to establish that its collection, preparation, maintenance and use of these emails have "some connection" to discussions and communications about labour relations matters in which it has an interest under section 65(6)3. Based on my review of the records, I am satisfied that it has met this threshold. The fact that these records also contain information about the appellant does not remove these records from the application of the section 65(6) exclusion.

[32] I find, therefore, that the following records are excluded from the *Act* under section 65(6)3: records 54-56, 59-61 (in part), 62-73, 75-76, 103, 142 (in part), 281, and 310-329. In my view, none of the exceptions in section 65(7) apply to these records. Given that these records are all excluded from the *Act* under section 65(6)3, it is not necessary to also consider whether they are excluded under section 65(6)1.

## **PERSONAL INFORMATION**

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

[33] The discretionary exemptions in sections 49(a) and (b) and the mandatory exemption in section 21(1) of the *Act* apply to "personal information." Consequently, it is necessary to determine whether the records contain "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;

[34] 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.<sup>8</sup>

---

<sup>8</sup> Order 11.

[35] Section 2(3) of the *Act* excludes certain information from the definition of personal information. It states:

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.

[36] In addition, previous IPC orders have found that 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.<sup>9</sup>

[37] However, previous orders have also found that 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.<sup>10</sup>

[38] The university submits that the records include the personal information of various individuals, including the appellant, other students and the dismissed professor.

[39] The appellant's representations do not directly address whether the records contain personal information, but it is clear that he believes that the records contain both his own personal information and that of other individuals.

[40] Based on my review of the records, I find that they contain the personal information of the appellant and other students. The type of personal information relating to the individuals falls within paragraphs (b) (educational history), (e), (f), (g) and (h) of the definition in section 2(1).

[41] Although the professor who was suspended and later dismissed by the university is identified in a professional capacity in the records, previous IPC orders have found that information that involves an examination of an employee's performance, or an investigation into his or her conduct, reveals something personal about them, and it therefore qualifies as their "personal information."<sup>11</sup> Consequently, I find that the information about this professor qualifies as his personal information.

[42] However, the records also include the names, titles and contact information of other individuals, including numerous university staff (both academic and non-academic), two student journalists,<sup>12</sup> two student government representatives<sup>13</sup> and

---

<sup>9</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

<sup>10</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

<sup>11</sup> e.g., Orders MO-2477, PO-2570, PO-2271 and P-1180.

<sup>12</sup> Records 91 and 129.

<sup>13</sup> Records 302-303.

other students identified in an official capacity.<sup>14</sup> With the exception of the one student journalist's personal email address, I find that these individuals' names and any associated titles and contact information fall with section 2(3) of the *Act*, which excludes such information from the definition of personal information.

## **LATE RAISING OF DISCRETIONARY EXEMPTIONS**

### **C. Should the university be permitted to make late exemption claims for some records?**

[43] Before assessing whether the exemptions claimed by the university apply to the records at issue in this appeal, I must first determine whether the university should be allowed to make late exemption claims for some records.

[44] Section 11.01 of the IPC's *Code of Procedure* (the *Code*) which governs new discretionary exemption claims, states the following:

In an appeal from an access decision, excluding an appeal arising from a deemed refusal, an institution may make a new discretionary exemption claim only within 35 days after the institution is notified of the appeal. A new discretionary exemption claim made within this period shall be contained in a new written decision sent to the parties and the IPC. If the appeal proceeds to the Adjudication stage, the Adjudicator may decide not to consider a new discretionary exemption claim made after the 35-day period.

[45] During the mediation stage of the appeal process, the university issued a supplementary decision letter to the appellant, stating that it was now relying on the discretionary exemption in section 19 to deny access to the information it had withheld from records 35-40 and 42-43, and the discretionary exemption in section 49(b) to deny access to the information it had withheld from record 46. The university made these new exemption claims more than 35 days after being notified of this appeal by the IPC.

[46] The objective of section 11.01 of the *Code* is to provide government organizations with a window of opportunity to raise new discretionary exemptions but not at a stage in the appeal where the integrity of the process is compromised or the interests of the appellant prejudiced.<sup>15</sup> In addition, this provision states that if the appeal proceeds to the adjudication stage, the adjudicator *may* decide not to consider a new discretionary exemption claim made after the 35-day period. Consequently, it is clear that an adjudicator has the discretion to consider a new discretionary claim, even if it is made after the 35-day timeframe.

---

<sup>14</sup> E.g., the two individuals identified in point 5 in the first email of record 49.

<sup>15</sup> Order P-883.

[47] The university submits that it should be allowed to make late exemptions claims for some records:

The university submits that the appellant was not prejudiced in any way by the late raising of discretionary exemptions. The whole purpose of a reconsideration of a record during the mediation stage is to reassess the initial decision on access or any exemptions claimed. If upon reconsideration, there are reasonable exemptions to claim, the university submits that by claiming such exemptions in these circumstances would not prejudice the appellant. Upon reviewing the records, the university exercised its discretion and applied sections 19 and 21 in conjunction with section 49(b).

The university further submits that the appeals process has not in any way been compromised. In fact, the university is of the view that the mediation and appeal process were positive and allowed the university to properly withhold the severed information in accordance with the *Act*.

[48] The appellant's representations do not address whether the university should be allowed to make late exemption claims for some records.

[49] In my view, allowing the university to make these late exemption claims would not compromise the integrity of the appeal process or prejudice the appellant's interests for three reasons.

[50] First, there are 197 records remaining at issue in this appeal and the university has only made late exemption claims for nine of these records, which is a relatively small number. In addition, it had already claimed the sections 19 and 49(b) exemptions for other records, so it is not proposing that entirely new exemptions that were not previously claimed be added to this appeal.

[51] Second, the interests designed to be protected by the sections 19 (solicitor-client privilege) and 49(b) (personal privacy) exemptions must be considered. The Supreme Court of Canada has found that solicitor-client privilege must be as close to absolute as possible to ensure public confidence and retain relevance, and that it is in the public interest that the free flow of legal advice be encouraged.<sup>16</sup> Moreover, the protection of individual privacy is one of the purposes of the *Act*, as set out in section 1(b). Not allowing the university to claim these exemptions could undermine the important interests underlying these exemptions, particularly if they apply to the records.

---

<sup>16</sup> *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, 2008 SCC 44 at para. 9.

[52] Third, although the sections 19 and 49(b) exemptions were claimed at a late stage in this appeal for some records, the appellant was provided with an opportunity to provide full representations as to whether these records qualify for exemption under these provisions and to respond to the university's representations on whether they apply to the records.

[53] In short, I find that allowing the university to make these late exemption claims would not compromise the integrity of the appeal process or prejudice the appellant's interests. Consequently, the university is permitted to claim the discretionary exemption in section 19 for records 35-40 and 42-43, and the discretionary exemption in section 49(b) for record 46.

## **RIGHT OF ACCESS TO ONE'S OWN PERSONAL INFORMATION/SOLICITOR-CLIENT PRIVILEGE**

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

#### ***Section 49(a)***

[54] Under section 49(a), an institution has the discretion to deny an individual access to his or her own personal information where the exemptions in sections 12, 13, 14, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that information.

[55] The university is withholding the following records or parts of these records under section 49(a), read in conjunction with the solicitor-client privilege exemption in section 19: 35-40, 42-43, 47, 49, 54-56, 62-73, 75-79, 106, 116, 144, 187-189, 193-278, 280-284, 287-295, 297-299, 301-302, 304-306, and 308-329. These records, which are emails chains, contain the appellant's personal information.

[56] I have already found that some of the above records are excluded from the *Act* under section 65(6). Consequently, it is only necessary to consider whether the following records are exempt under section 49(a) in conjunction with section 19: records 35-40, 42-43, 47, 49, 77-79, 106, 116, 144, 187-189, 193-278, 280, 283-284, 287-295, 297-299, 301-302, 304-306, and 308-309.

#### ***Section 19(c)***

[57] The university claims that the emails in the above records qualify for exemption under section 19(c). This provision states:

A head may refuse to disclose a record,

that was prepared by or for counsel employed or retained by an educational institution or a hospital for use in giving legal advice or in contemplation of or for use in litigation.

[58] Section 19(c) is a statutory exemption that is available in the context of counsel employed or retained by an educational institution giving legal advice or conducting litigation. The part of section 19(c) that refers to a record that was prepared by or for counsel for an educational institution “for use in giving legal advice,” is the statutory solicitor-client communication privilege aspect of this exemption.

[59] 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.<sup>17</sup> The rationale for this privilege is to ensure that a client may confide in his or her lawyer on a legal matter without reservation.<sup>18</sup>

[60] 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.<sup>19</sup>

[61] The privilege may also apply to the legal advisor’s working papers directly related to seeking, formulating or giving legal advice.<sup>20</sup>

[62] 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.<sup>21</sup>

[63] The part of section 19(c) that refers to a record that was prepared by or for counsel for an educational institution “in contemplation of or for use in litigation” is the statutory litigation privilege aspect of this exemption. Statutory litigation privilege includes records prepared for use in the mediation or settlement of actual or contemplated litigation.<sup>22</sup> Termination of litigation does not affect the application of statutory litigation privilege.<sup>23</sup>

---

<sup>17</sup> *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).

<sup>18</sup> Orders PO-2441, MO-2166 and MO-1925.

<sup>19</sup> *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.).

<sup>20</sup> *Susan Hosiery Ltd. v. Minister of National Revenue*, [1969] 2 Ex. C.R. 27.

<sup>21</sup> *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.).

<sup>22</sup> *Liquor Control Board of Ontario v. Magnotta Winery Corporation*, 2010 ONCA 681.

<sup>23</sup> *Ontario (Attorney General) v. Ontario (Information and Privacy Commission, Inquiry Officer)* (2002), 62 O.R. (3d) 167 (C.A.).

[64] The university submits that some emails in the above records relate to legal advice being sought and provided by the university's legal counsel, while others are part of the "continuum of communication" to legal counsel. It submits that:

The solicitor-client privilege is crucial to individuals within the university, as it allows them to freely make requests to obtain legal advice, knowing that it will remain confidential. In order to protect the integrity of the Legal Services, including the continuum of communications between the legal counsel and the university personnel, the records must be exempt from disclosure.

Further, the university did not take any action that constitutes a waiver of its common law and statutory privileges either implicitly or explicitly. The records have not been disclosed to outsiders either by the university's legal counsel or the officers receiving the advice, nor has the university, knowing the existence of the privilege, voluntarily evinced an intention to waive the privilege.

[65] The appellant disputes that all of the above records qualify for exemption under section 19(c). With respect to records 35-40 and 42-43, he cites a passage from Interim Order PO-2909-I, in which Adjudicator Smith examined whether an email was subject to solicitor-client privilege. The passage cited by the appellant comes from the following full paragraph in that order:

Based upon my review of the information at issue, I find that even though there may have existed a continuum of communication between the University and the law firm about an ongoing labour relations matter involving the professor named in the record, the record also concerns the appellant and his educational position at the University. Although two lawyers at the law firm were sent this email, the email was also sent to two other University officials and was copied to seven other individuals. There is no indication in this email that legal advice is being sought or given. Merely sending a copy of a record to a solicitor in and of itself does not automatically result in privilege being attached to it.

[66] In addition, the appellant states some of the email chains contain emails in which neither the sender nor the recipients are legal counsel, particularly those found in records 49 and 106. He submits that such emails cannot qualify for exemption under section 19(c) because no legal advice is being sought or provided.

[67] I have reviewed the email chains in the records withheld by the university under section 49(a) in conjunction with section 19(c), which are generally between the university's internal or external legal counsel and various university officials. These emails, some of which include attachments, address a number of matters, including:



- the arbitration of a complaint filed by the appellant;
- the appellant's request to obtain a computer and scientific literature from the suspended professor's laboratory and office; and
- the appellant and other individuals' civil suit against the university.

[68] In some emails, the university's internal or external legal counsel is either giving advice or advice is being sought from them about these matters. In my view, these emails constitute direct communications of a confidential nature between solicitors and their clients made for the purpose of obtaining or giving professional legal advice, and they are, therefore, protected from disclosure by the statutory solicitor-client communication privilege aspect of the section 19(c) exemption.

[69] In other emails, although legal advice is not being directly given or sought, information is being passed between the university's legal counsel and their clients as part of the continuum of communications aimed at keeping both informed so that advice may be sought and given as required. Consequently, the statutory solicitor-client communication privilege aspect of the section 19(c) exemption applies to this "continuum of communications" between the university's legal counsel and their clients.

[70] In addition, a number of emails and attachments, particularly those that address the civil suit that the appellant and two other individuals filed against the university, are covered by the statutory litigation privilege aspect of section 19(c). In particular, these records were prepared by either the university's internal or external legal counsel in contemplation of or for use in litigation.

[71] In short, I find that most of these emails and attachments were prepared by or for counsel employed or retained by the university for use in giving legal advice or in contemplation of or for use in litigation, as required by section 19(c). There is no evidence before to suggest that the university waived the privilege attached to these records in any way. Consequently, I find that most of these records contain emails which qualify for exemption under section 49(a), read in conjunction with section 19(c).

[72] However, several of these records include some emails in which neither the sender nor the recipient(s) are the university's internal and external legal counsel. In my view, these emails cannot qualify for exemption under section 19(c), because they were not prepared by or for counsel employed or retained by the university for use in giving legal advice, nor would disclosing them reveal or permit solicitor-client communications to be deduced. In addition, they were not prepared by or for the university's legal counsel in contemplation of or for use in litigation. In short, I find that there are specific emails in the following records that are not exempt under section 49(a), read in conjunction with section 19(c): records 49 (first two emails), 225 (first

two emails), 226 (first email), 249 (first email), 250 (first email), 251 (first email), and 302 (in full).

[73] However, the university claims that there is information in some of these emails that is either exempt under the personal privacy exemptions in sections 21(1) or 49(b) of the *Act* or is not responsive to the appellant's request. I will consider these issues below.

## **PERSONAL PRIVACY**

### **E. Does the discretionary exemption at section 49(b) or the mandatory exemption at section 21(1) apply to the information at issue?**

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

[75] In contrast, under section 21(1), where a record contains personal information of another individual but *not* the requester, the institution is prohibited from disclosing that information unless one of the exceptions in sections 21(1)(a) to (e) applies, or unless disclosure would not be an unjustified invasion of personal privacy under section 21(1)(f).

[76] The university claims that the following records contain personal information that is exempt under section 49(b) or 21(1): records 41, 44, 46, 49, 59-61, 74, 86, 91, 99-100, 103, 106, 116, 119, 129, 175-176, 178, 185, 209-221, 224, 228, 230-231, 233-234, 237-239, 241, 243-244, 263, 274-276, 279-281, 285-288, and 290-307.

[77] I have already found that some of these records are either excluded from the *Act* under section 65(6) or exempt under section 49(a) in conjunction with section 19(c). Consequently, it is only necessary to consider whether the following remaining records that are not otherwise excluded or exempt contain personal information that is exempt under section 49(b) or 21(1): records 41, 44, 46, 49, 59-61, 74, 86, 91, 99-100, 119, 129, 175-176, 178, 185, 285-286, 296, 300, 302-303 and 307.

[78] I have reviewed these records and find that they contain the personal information of both the appellant and other individuals. Consequently, it must be determined whether this personal information qualifies for exemption under section 49(b). This provision states:

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

if the disclosure would constitute an unjustified invasion of another individual's personal privacy.

[79] Most of the other individuals identified in the records are students (or likely now former students). The university has withheld their names and other personal information. In the circumstances of this appeal, it must be determined whether disclosing these other individuals' personal information to the appellant would constitute an unjustified invasion of their personal privacy under section 49(b).

[80] Sections 21(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold under section 49(b) is met:

- 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);
- section 21(2) lists "relevant circumstances" or factors that must be considered;
- section 21(3) lists circumstances in which the disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy; and
- section 21(4) lists circumstances in which the disclosure of personal information does not constitute an unjustified invasion of personal privacy, despite section 21(3).

### ***Sections 21(1)(a) to (e)***

[81] Neither the university nor the appellant has specifically cited any of the exceptions listed in sections 21(1). However, the appellant asks in his representations that the IPC contact the individuals named in the records to obtain their consent to disclose their personal information to him, which amounts to an argument that section 21(1)(a) is applicable if individuals other than the appellant consent to the disclosure of their personal information to him.

[82] Section 21(1)(a) prohibits the university from disclosing another individual's personal information to the appellant except "upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access." The IPC has found that for section 21(1)(a) to apply, the consenting party must provide a written consent to the disclosure of his or her personal information in the context of an access request.<sup>24</sup>

---

<sup>24</sup> Order PO-1723.

[83] The adjudicator originally assigned to this appeal contacted the dismissed professor and obtained his consent to disclose his personal information to the appellant. Consequently, section 21(a) applies to the dismissed professor's personal information, and it must be disclosed to the appellant, unless it is in a record that I have found is excluded from the *Act* under section 65(6) or is exempt under section 49(a) in conjunction with section 19.

[84] However, most of the other individuals identified in the records are students (or likely now former students) and there is no updated contact information for them in the records. Given that these individuals have not consented to the disclosure of their personal information to the appellant, I find that the exception in section 21(1)(a) does not apply to their personal information.

[85] In my view, none of the other exceptions in sections 21(1)(b) to (e) apply to the personal information of these individuals in the records.

### ***Sections 21(2), (3) and (4)***

[86] In determining whether disclosing the other students' personal information to the appellant would constitute an unjustified invasion of their personal privacy pursuant to section 49(b), I will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.<sup>25</sup>

[87] 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. In their representations, neither the university nor the appellant cite any of the presumptions in section 21(3). In my view, however, the presumption in section 21(3)(d) applies to the personal information of the students identified in the records. This provision states:

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*.

[emphasis added]

[88] I find that the personal information of these students relates to their educational history under section 21(3)(d), because it reveals that they were students at the university in specific programs at a particular point in time. Consequently, disclosing their personal information (including their names) to the appellant is presumed to constitute an unjustified invasion of their personal privacy under section 21(3)(d).

---

<sup>25</sup> Order MO-2954.

[89] Section 21(4) lists circumstances in which the disclosure of personal information does not constitute an unjustified invasion of personal privacy, despite section 21(3). I find that none of these circumstances apply to the personal information of these students.

[90] Section 21(2) lists various factors that may be relevant in determining whether disclosure of the personal information of these students to the appellant would be an unjustified invasion of their personal privacy. Some of these factors weigh in favour of disclosure, while others weigh in favour of privacy protection. Neither of the parties has cited any of the section 21(2) factors in their representations. Based on my review of the records, I find that none of these factors apply to the personal information of the students.

[91] In other words, the only provision in sections 21(2) and (3) that applies in the circumstances of this appeal is section 21(3)(d), which establishes a presumption that disclosing the personal information of other students to the appellant would constitute an unjustified invasion of their personal privacy. After considering the application of the section 21(3)(d) presumption and in the absence of any applicable section 21(2) factors, I have concluded that balance weighs in favour of these students' privacy rights rather than the appellant's access rights. Consequently, I find that disclosing the personal information of these other students to the appellant would constitute an unjustified invasion of their personal privacy and this information is exempt from disclosure under section 49(b).

[92] However, the university has withheld a line in point 5 of the first email in record 49, in which a university official expresses an opinion about the university's conduct towards the appellant. This university official expressed her opinion in a professional, not a personal capacity and it does not, therefore, constitute her personal information. As a result, the disclosure of her professional opinion cannot constitute an unjustified invasion of her personal privacy under section 49(b).

[93] In addition, as noted above under Issue B (Personal Information), the records also include the names and other information of two student journalists, two representatives of the Graduate Students' Association (GSAÉD) and other students identified in an official capacity, which the university has exempted under section 49(b). For example:

- Record 91 includes an email between a university dean and a student journalist, who has contacted him about an article she was writing. The university has disclosed some of this email to the appellant but has withheld the student journalist's name and email address.
- Record 129 is an email from a different student journalist to "undisclosed-recipients" at the university. The student journalist sent this email to the

university from an email address that includes the name of the student newspaper. In this email, the student journalist provides the unidentified recipients, who are presumably university officials, with a copy of letter that the appellant posted to the online letters section of the student newspaper. The university has disclosed the contents of the email in full to the appellant, except for the student journalist's name and email address at the newspaper.

- Records 302-303 include email correspondence to and from the external commissioner of the GSAÉD and also refer to another GSAÉD representative.

[94] Earlier in this order, I found that all of these individuals are identified in a professional or official capacity and their names and any associated titles and contact information fall with section 2(3) of the *Act*, which excludes such information from the definition of personal information.<sup>26</sup> Section 49(b) only applies to personal information, not information that identifies an individual in a professional, official or business capacity. Consequently, with the exception of the student journalist's email address in record 91, which appears to be her personal email, I find that these individuals' names and any associated titles and contact information are not exempt under section 49(b) and must be disclosed to the appellant.

[95] Section 10(2) of the *Act* requires the university to disclose as much of a record as can reasonably be severed without disclosing the information that falls under one of the exemptions. The IPC has found that it is not reasonable to sever a record containing the personal information of both a requester and other individuals if this information is too closely intertwined.<sup>27</sup>

[96] In my view, the personal information of the appellant and other individuals is not closely intertwined in some of the records withheld in full by the university, and it is, therefore, reasonable to sever the records in a manner that provides him with his own personal information and other non-exempt information but not the personal information of other individuals. In such circumstances, disclosing the appellant's own personal information to him cannot constitute an unjustified invasion of other individuals' personal privacy under section 49(b). Consequently, subject to my analysis below as to whether any information is not responsive to the appellant's request, I find that the following records can reasonably be severed under section 10(2) and disclosed to the appellant: records 285-286, 296, 300, 302 and 303.

---

<sup>26</sup> See para 42 of this order.

<sup>27</sup> Orders PO-2033-I, PO-1663 and PO-1735 and *Ontario (Minister of Finance) v. Ontario (Information and Privacy Commissioner)* (1997), 102 O.A.C. 71 (Div. Ct.).

## RESPONSIVENESS OF RECORDS

### F. Is the information in the records responsive to the appellant's request?

[97] The university claims that the following records contain information that is not responsive to the appellant's request: records 49, 80, 99, 100, 103, 108-111, 136, 175, 176, 178, 185, 193-195, 214-217, 219, 223, 227, 304, 306, 310-316, 320, 323-325, and 327-329. I have already found that most of this information is either in records that are excluded from the *Act* under section 65(6) or are exempt under sections 49(a) or (b). Consequently, it is only necessary to consider whether the information in the following records is responsive to the appellant's request: records 49, 80, 99, 108-111, and 136.

[98] 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.<sup>28</sup> To be considered responsive to the request, records must "reasonably relate" to the request.<sup>29</sup>

#### ***Record 49***

[99] This record is an email chain between various university officials that discusses matters relating to the appellant, including a presentation by him to the university senate. The university submits that parts of the first email in this chain contain information that is not responsive to his access request because it does not relate to him. The appellant disagrees and claims that such information is responsive to his request.

[100] The parts of the first email that the university claims are not responsive to the appellant's request contain comments by a university official about the senate and also about another individual. The appellant's access request is for all information about himself, including emails sent by or received by various university officials and their offices. In my view, the information in those parts of the first email reasonably relates to the appellant's request, because the university official's comments about the senate and another individual are connected to the appellant's grievances and presentation to this body, albeit indirectly. Consequently, I find that this information is responsive and must be disclosed to the appellant, because it is not otherwise excluded or exempt under the *Act*.

#### ***Record 80***

[101] This record is an email chain between various university officials that discusses matters relating a meeting of the university senate. The first email, which has been disclosed to the appellant, relates to a presentation by him to the senate.

---

<sup>28</sup> Orders P-134 and P-880.

<sup>29</sup> Orders P-880 and PO-2661.

[102] The subsequent emails relate to other matters that will be discussed at the senate. The university claims that the subsequent emails are not responsive to the appellant's request. I have reviewed these emails and find that they have nothing to do with the appellant or his presentation to the senate. In my view, the information in those emails does not reasonably relate to the appellant's request and are therefore not responsive.

***Record 99***

[103] This record is an email chain between various university officials about the appellant and the Master of Sciences (M.Sc.) program at the university. The university has withheld the first email in full and submits that part of this email is not responsive to the appellant's request. In my view, the first line in this email is part of a discussion about the appellant. I find that this line is responsive to his request and must be disclosed to him. The second line of this email contains information about another student and is exempt under section 49(b) of the *Act*.

***Records 108-111***

[104] These records are emails chains between various university officials that discuss a list of possible arbitrators to resolve a complaint that the appellant filed against the university. The university submits that these emails are not responsive to the appellant's request. However, these discussions are about locating an arbitrator who could arbitrate the appellant's complaint against the university. In my view, these records reasonably relate to the appellant's request. Consequently, I find that they are responsive and must be disclosed to the appellant because they are not otherwise excluded or exempt under the *Act*.

***Record 136***

[105] This record is an email between various university officials that discusses the appellant, a GSAÉD representative, and the dismissed professor. The university has withheld the references to the GSAÉD representative, and the dismissed professor.

[106] In my view, the parts of the record that refer to the dismissed professor are responsive to the appellant's request, but they constitute discussions or communications about labour relations matters in which the institution has an interest, and are, therefore, excluded from the scope of the *Act* under section 65(6)3. However, the email also includes another reference to the dismissed professor, in which he is identified by the first letter of his surname. This reference, which is responsive to the appellant's request, does not fall within the section 65(6) exclusion.



[107] In my view, the references to the GSAÉD representative, who is identified in a professional or official capacity, not his personal capacity, reasonably relate to the appellant's request. Although the appellant requested "all records" about himself, there is no suggestion in the wording of his request that he is not seeking information relating to other individuals in such records. Moreover, it is evident from the substance of the records that the appellant and the GSAÉD representative have some connection or relationship to each other. I find, therefore, that the references to the GSAÉD representative are responsive to the appellant's request and must be disclosed to him, because they are not otherwise excluded or exempt under the *Act*.

## **EXERCISE OF DISCRETION**

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

[108] 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 IPC may determine whether the institution failed to do so.

[109] In addition, the IPC 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; or
- it fails to take into account relevant considerations.

[110] In either case the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.<sup>30</sup> The IPC may not, however, substitute its own discretion for that of the institution.<sup>31</sup>

[111] The university states that in exercising its discretion to withhold some records or parts of these records under sections 49(a) and (b), it took into account a number of factors, including the purposes of the *Act*, whether the requester was seeking access to his own personal information, whether he had a sympathetic or compelling need to receive the information, and whether disclosure would increase public confidence in the operation of the university.

---

<sup>30</sup> Order MO-1573.

<sup>31</sup> Section 54(2) of the *Act*.

[112] It further submits that it exercised its discretion to refuse disclosure of some records or parts of these records to protect information that is subject to solicitor-client privilege and to protect the privacy of individuals other than the appellant.

[113] The appellant's representations do not address whether the university exercised its discretion properly in applying sections 49(a) and (b) to the withheld information in some records or parts of these records.

[114] The university located 329 records that are responsive to the appellant's request. It disclosed some of these records to him, but denied access to 197 remaining records or parts of these records under various provisions in the *Act*, including the discretionary exemptions in sections 49(a) and (b).

[115] In my view, the university exercised its discretion properly in withholding the records or parts of records that qualify for exemption under sections 49(a) or (b). It conducted a thorough review of the large number of records that it located in response to the appellant's broad request and decided to disclose some to him, while exercising its discretion to withhold other records and parts of records that fall within the purview of these exemptions. I am not persuaded that it failed to take relevant factors into account or that it considered irrelevant factors. Consequently, I uphold the university's exercise of discretion under sections 49(a) and (b).

## **ORDER:**

1. I order the university to disclose additional parts of the following 20 records to the appellant: records 49, 91, 99, 108, 109, 110, 111, 129, 136, 225, 226, 249, 250, 251, 285, 286, 296, 300, 302, and 303.
2. I have provided the university with a copy of these records and have highlighted the exempt parts in green. To be clear, the university must disclose the non-highlighted parts to the appellant but not the parts highlighted in green. The university must disclose these severed records to the appellant by **March 27, 2014**.
3. I reserve the right to require the university to provide me with a copy of the severed records that it discloses to the appellant.
4. I uphold the university's decision to withhold the remaining records and parts of records from the appellant.

Original Signed By: \_\_\_\_\_  
Colin Bhattacharjee  
Adjudicator

February 27, 2014 \_\_\_\_\_

**Appendix – Records at issue**

<b>Record number</b>	<b>General description of record</b>	<b>University's decision</b>	<b>Exclusions/ exemptions</b>	<b>IPC finding</b>
35	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
36	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
37	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
38	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
39	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
40	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
41	Email chain re appellant and other individual	Withheld in part	ss. 49(b), 21(1)	Upheld
42	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
43	Email chain re arbitration of appellant's complaint	Withheld in part	ss. 49(a), 19	Upheld
44	Email chain re appellant and other individual	Withheld in part	ss. 49(b), 21(1)	Upheld

46	Email chain re appellant and other individual	Withheld in part	ss. 49(b), 21(1)	Upheld
47	Email chain re appellant and other student's legal claim against university	Withheld in part	ss. 49(a), 19	Upheld
49	Email chain re appellant and university senate	Withheld in part	Non-responsive ss. 49(a), 19 ss. 49(b), 21(1)	Upheld in part
54	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
55	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
56	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
59	Email chain re appellant and other individuals at awards ceremony	Withheld in part	s. 65(6) ss. 49(b), 21(1)	Upheld
60	Email chain re appellant and other individuals at awards ceremony	Withheld in part	s. 65(6) ss. 49(b), 21(1)	Upheld
61	Email chain re appellant and other individuals at awards ceremony	Withheld in part	s. 65(6) ss. 49(b), 21(1)	Upheld
62	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
63	Email chain re	Withheld in part	s. 65(6)	Upheld

	appellant getting access to computer/research materials appellant		ss. 49(a), 19	
64	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
65	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
66	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
67	Email chain re appellant getting access to computer/research materials	Withheld in part	ss. 49(a), 19	Upheld
68	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
69	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
70	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
71	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld

72	Email chain re dismissed professor and appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
73	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
75	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
76	Email chain re appellant getting access to computer/research materials	Withheld in part	s. 65(6) ss. 49(a), 19	Upheld
77	Email chain re appellant getting access to computer/research materials	Withheld in part	ss. 49(a), 19	Upheld
78	Email chain re appellant getting access to computer/research materials	Withheld in part	ss. 49(a), 19	Upheld
79	Email chain re appellant getting access to computer/research materials	Withheld in part	ss. 49(a), 19	Upheld
80	Email chain re appellant getting access to computer/research materials	Withheld in part	Non-responsive	Upheld
86	Email and photos re graffiti	Withheld in part	ss. 49(b), 21(1)	Upheld

91	Email chain re article about appellant's civil suit	Withheld in part	ss. 49(b), 21(1)	Upheld in part
99	Email chain re master's degree options	Withheld in part	Non-responsive ss. 49(b), 21(1)	Upheld in part
100	Email chain re master's degree options	Withheld in part	Non-responsive ss. 49(b), 21(1)	Upheld
103	Email chain re suspended professor, appellant and other individual	Withheld in part	ss. 65(6) ss. 49(b), 21(1) Non-responsive	Upheld
106	Email chain re suspended professor, appellant and other individual	Withheld in part	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
108	Email chain re list of arbitrators for appellant's complaint	Withheld in part	Non-responsive	Upheld in part
109	Email chain re list of arbitrators for appellant's complaint	Withheld in part	Non-responsive	Upheld in part
110	Email chain re list of arbitrators for appellant's complaint	Withheld in part	Non-responsive	Upheld in part
111	Email chain re list of arbitrators for appellant's complaint	Withheld in part	Non-responsive	Upheld in part
116	Email chain re letter from appellant's legal counsel	Withheld in part	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
119	Email chain re appellant's choice of supervisor	Withheld in part	ss. 49(b), 21(1)	Upheld
129	Email from student	Withheld in part	ss. 49(b), 21(1)	Not upheld

	journalist re online comment by appellant			
136	Email re appellant's choice of supervisor	Withheld in part	Non-responsive	Upheld in part
142	Email chain and attachment re appellant's choice of supervisor	Withheld in part	s. 65(6)	Upheld
144	Email re appellant's letter to university community	Withheld in part	ss. 49(a), 19	Upheld
175	Handwritten notes re appellant and other individuals	Withheld in part	ss. 49(b), 21(1) Non-responsive	Upheld
176	Handwritten notes re appellant and other individuals	Withheld in part	ss. 49(b), 21(1) Non-responsive	Upheld
178	Handwritten notes re appellant and other individuals	Withheld in part	ss. 49(b), 21(1) Non-responsive	Upheld
185	Handwritten notes re appellant and other individuals	Withheld in part	ss. 49(b), 21(1) Non-responsive	Upheld
187	Email chain re appellant and suspended professor	Withheld in part	ss. 49(a), 19	Upheld
188	Email chain re suspended professor and appellant	Withheld in part	ss. 49(a), 19	Upheld
189	Email chain re suspended professor and appellant	Withheld in part	ss. 49(a), 19	Upheld
193	Email chain re meeting with individual	Withheld in full	ss. 49(a), 19 Non-responsive	Upheld
194	Email chain re meeting with individual	Withheld in full	ss. 49(a), 19 Non-responsive	Upheld



195	Email chain re meeting with individual	Withheld in full	ss. 49(a), 19 Non-responsive	Upheld
196	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
197	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
198	Email chain and attachments re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
199	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
200	Email chain and attachments re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
201	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
202	Email chain and attachments re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
203	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
204	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
205	Email chain re appellant and	Withheld in full	ss. 49(a), 19	Upheld

	other individuals' civil suit			
206	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
207	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
208	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
209	Email re dismissed professor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
210	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
211	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
212	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
213	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
214	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
215	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
216	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld

217	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
218	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
219	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
220	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
221	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
222	Email chain re thesis defence of another individual/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
223	Email chain re thesis defence of another individual/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 Non-responsive	Upheld
224	Email chain re appellant and other individuals' supervisor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
225	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld in part
226	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld in part

227	Email chain re thesis defence of another individual	Withheld in full	ss. 49(a), 19 Non-responsive	Upheld
228	Email chain re thesis defence of another individual/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
229	Email chain re other individual's supervisor/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
230	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
231	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
232	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
233	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
234	Email re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
235	Email chain and attachments re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
236	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld

237	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
238	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
239	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
240	Email and attachments re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
241	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
242	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
243	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
244	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
245	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
246	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld

247	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld
248	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld
249	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld in part
250	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld in part
251	Email chain re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld in part
252	Email chain re appellant's choice of supervisor/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
253	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
254	Email chain re appellant's choice of supervisor	Withheld in full	ss. 49(a), 19	Upheld
255	Email re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld
256	Email chain re appellant's choice	Withheld in full	ss. 49(a), 19	Upheld

	of supervisor/ appellant and other individuals' civil suit			
257	Email chain re Protection Services called about appellant/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
258	Email re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
259	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
260	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
261	Email chain re appellant's choice of supervisor/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
262	Email chain re appellant's choice of supervisor/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
263	Email chain and attachment re appellant's choice of supervisor/ appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld

264	Email re appellant getting access to computer/research materials	Withheld in full	ss. 49(a), 19	Upheld
265	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
266	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
267	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
268	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
269	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
270	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
271	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
272	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
273	Email chain and attachment re appellant and other individuals'	Withheld in full	ss. 49(a), 19	Upheld



	civil suit			
274	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
275	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
276	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
277	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
278	Email chain and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
279	Email chain re appellant and other individuals at awards ceremony	Withheld in full	ss. 49(b), 21(1)	Upheld
280	Email chain re appellant and other individuals at awards ceremony	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
281	Email chain re appellant and other individuals at awards ceremony	Withheld in full	s. 65(6) ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
282	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
283	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
284	Email chain re	Withheld in full	ss. 49(a), 19	Upheld

	appellant and other individuals' civil suit			
285	Protection Services Report re incident involving appellant	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld in part
286	Protection Services Report re events to support suspended professor	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld in part
287	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
288	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
289	Email and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
290	Email and attachment re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
291	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
292	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
293	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
294	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld

	civil suit			
295	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
296	Protection Services Report re event involving appellant and other individuals	Withheld in full	ss. 49(b), 21(1)	Upheld in part
297	Email re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
298	Email re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
299	Email chain re call from NSERC re appellant and other individual's scholarships	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
300	Email re call from NSERC re appellant and other individual's scholarships	Withheld in full	ss. 49(b), 21(1)	Upheld in part
301	Email chain and photos re Protection Services Report involving individual (not appellant)	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
302	Email chain re meeting with graduate students	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Not upheld
303	Email chain re meeting with graduate students	Withheld in full	ss. 49(b), 21(1)	Not upheld
304	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld

305	Email re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
306	Email chain re suspended professor's Faculty of Graduate and Postdoctoral Studies (FGPS) membership	Withheld in full	ss. 49(a), 19 ss. 49(b), 21(1) Non-responsive	Upheld
307	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(b), 21(1)	Upheld
308	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
309	Email chain re appellant and other individuals' civil suit	Withheld in full	ss. 49(a), 19	Upheld
310	Email chain re appellant and Faculty Teaching Personnel Committee (FTPC) meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
311	Email chain re appellant and FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
312	Email chain re appellant and FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
313	Email chain re FTPC meeting re suspended	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld

	professor			
314	Email chain re FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
315	Email chain re FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
316	Email chain re FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
317	Email chain re appellant and FTPC meeting re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 ss. 49(b), 21(1)	Upheld
318	Email chain re radioactive sources in lab	Withheld in full	s. 65(6) ss. 49(a), 19	Upheld
319	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19	Upheld
320	Email chain re suspended professor	Withheld in full	s. 65(6) Non-responsive	Upheld
321	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19	Upheld
322	Email chain re suspended professor	Withheld in full	s. 65(6)	Upheld
323	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
324	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
325	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
326	Email chain re suspended	Withheld in full	s. 65(6)	Upheld

	professor			
327	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
328	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld
329	Email chain re suspended professor	Withheld in full	s. 65(6) ss. 49(a), 19 Non-responsive	Upheld