

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4254

Appeal PA20-00060

University of Toronto

April 27, 2022

Summary: The appellant submitted a request under the *Act* to the university for records relating to him as a PhD student. The university granted the appellant access to some of the responsive records. The university withheld the remainder of the records under the discretionary exemptions in sections 49(b) (personal privacy) and 49(c.1)(i) (evaluative or opinion material) of the *Act*. The university also claimed that some of the records were outside the scope of the *Act* due to the research exclusion in section 65(8.1)(a). Finally, the university withheld some information as not responsive to the request. The appellant appealed the university's decision. During mediation, the appellant confirmed he did not seek access to the personal information of other individuals. As such, the personal information of other individuals and the personal privacy exemption in section 49(b) were no longer at issue. In this order, the adjudicator finds the records are subject to the *Act* due to the exception in section 65(10) to the exclusion in section 65(8.1)(a). However, the adjudicator finds that the records are exempt from disclosure under section 49(c.1)(i) and upholds the university's exercise of discretion to withhold them. The adjudicator also finds that the information withheld as not responsive to the appellant's request is not responsive. Accordingly, the adjudicator upholds the university's decision and dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1) (definition of *personal information*), 24, 49(c.1)(i), 65(8.1)(a) and 65(10).

Orders and Investigation Reports Considered: Final Order PO-3089-F, Interim Order PO-3893-I and Order PO-3713.

OVERVIEW:

[1] The appellant submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the University of Toronto (the university) for records relating to him as a PhD student during a specific period.

[2] The university issued a decision granting the appellant partial access to the responsive records. The university withheld some records or parts thereof under the discretionary exemptions in section 49(b) (personal privacy) and 49(c.1)(i) (evaluative or opinion material) of the *Act*. The university also advised the appellant that some records were excluded from the scope of the *Act* pursuant to section 65(8.1) (research). The university also withheld portions of the records as not responsive to the request.

[3] The appellant appealed the university's decision to the Information and Privacy Commissioner of Ontario (the IPC).

[4] During mediation, the appellant confirmed his interest in pursuing the records or parts thereof withheld under the exemption in section 49(c.1)(i) and that the university claimed were subject to the exclusion in section 65(8.1), with the exception of the information he already had a copy of. The appellant also confirmed his interest in pursuing access to the information identified as not responsive. However, the appellant stated he did not wish to pursue access to the records or parts of records withheld under section 49(b) of the *Act*.

[5] No further mediation was possible and the file was transferred to the adjudication stage of the appeal process in which an adjudicator may conduct an inquiry under the *Act*. The adjudicator originally assigned to the file began the inquiry by inviting the university to submit representations in response to a Notice of Inquiry, which summarizes the facts and issues under appeal. The university submitted representations and clarified the records that remain at issue in this appeal. After reviewing the university's representations, the adjudicator sought and received further representations from the university.

[6] The appeal was then transferred to me to continue the inquiry. I invited the appellant to submit representations in response to the Notice of Inquiry and the university's representations, which were shared with him in accordance with Practice Direction Number 7 of the IPC's *Code of Procedure*. The appellant submitted representations.

[7] In the discussion that follows, I find the *Act* applies to the records at issue due to the application of the exception to the section 65(8.1)(a) exclusion in section 65(10). However, I find the records are exempt from disclosure under the discretionary section 49(c.1)(i) exemption and uphold the university's exercise of discretion. Finally, I find the records that were withheld as not responsive are not responsive to the appellant's request. I uphold the university's decision and dismiss the appeal.

RECORDS:

[8] There are 22 records at issue, totalling 73 pages. The records are described as follows in the university's Index of Records:

Record Number	Page Number	Description	Reason for Denial of Access
16	1	Email dated May 14, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
18	2-3	Email dated May 9, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
19	4-5	Email dated May 9, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
32	6-7, duplicated at pages 72-73	Email dated May 18, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
37	8	Email dated November 12, 2019	Not responsive
49	9	Email dated November 9, 2017	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
50	10	Email dated May 15, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
51	11-12	Email dated May 15, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
52	13-14	Email dated May 16, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
53	15-16	Email dated May 16, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
54	17-18	Email dated May 16, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
55	19-51	New Proposal Spring 2018 with comments	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
60	52-56	Email dated November 9, 2017	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)

61	57-58	Email dated November 9, 2017	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
64	59	Email dated November 9, 2017	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
66	60	Email dated November 9, 2017	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
68	61-62	Email dated May 15, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
71	63-64	Email dated May 9, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
74	65-66	Email dated May 15, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
75	67-68	Email dated May 16, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
85	69-70	Email dated May 16, 2018	Excluded under section 65(8.1) and/or exempt under section 49(c.1)(i)
90	71	Email dated November 19, 2018	Not responsive

ISSUES:

- A. What is the scope of the request? What records are responsive to the request?
- B. Does the section 65(8.1) exclusion for records respecting or associated with research or teaching apply to the records?
- C. Does the discretionary exemption at section 49(c.1)(i) apply to the information at issue?
- D. Did the university exercise its discretion under section 49(c.1)(i)? If so, should I uphold the exercise of discretion?

DISCUSSION:

Issue A: What is the scope of the request? What records are responsive to the request?

[9] The university takes the position that portions of records 37 and 90 are outside the scope of the appellant's request.

[10] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. Section 24 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).

[11] Previous orders have found that institutions should adopt a liberal interpretation of the request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in a request should be resolved in the requester's favour.¹

[12] To be considered responsive, the records must *reasonably relate* to the request.²

[13] The appellant's request states that he seeks "all internal records (documents, notes, email, etc.) pertaining to [the appellant] as a PhD Student at the University of Toronto from 01/09/2013 to 01/11/2019."

[14] The university submits the withheld portion of record 37 is not responsive because it was created on November 12, 2019, which is beyond the time period specified by the appellant (November 1, 2019).

[15] The university submits the withheld portions of record 90 are not responsive because they do not relate to the appellant and do not contain or refer to his personal information. The university states the primary purpose and subject of the information withheld as not responsive relates to the planning of a panel that was not related to the

¹ Orders P-134 and P-880.

² Orders P-880 and PO-2661.

appellant. The university acknowledges that discrete portions of the emails in record 90 relate to the appellant. However, the university submits that these portions were released to the appellant and the author of the email acknowledges that the appellant is a separate topic from the main subject and purpose of the correspondence (i.e. the panel).

[16] Therefore, the university submits that these portions of the records are not responsive to the appellant's request.

[17] In his representations, the appellant submits that "the records provided in an index table by the University appear to fulfil the scope of the request." The appellant does not address whether the portions withheld from records 37 and 90 are responsive to his request.

[18] I reviewed the information identified by the university as not responsive. Based on that review, I uphold the university's decision to withhold it. With regard to the portion withheld from record 37, I agree with the university that the email was created outside of the time period identified by the appellant in his request. I note the appellant did not take issue with the university's denial of access to this email in his representations. Given these circumstances, I find the portion withheld from record 37 is not responsive to the appellant's request.

[19] In addition, I find the information withheld from record 90 to be not responsive to the appellant's request. I confirm the information withheld from record 90 does not relate to the appellant; rather, it relates to a panel being organized by the authors of the email.

[20] Therefore, I uphold the university's decision to withhold portions of record 37 and 90 from disclosure on the basis that they are not responsive to the appellant's request.

Issue B: Does the section 65(8.1) exclusion for records respecting or associated with research or teaching apply to the records?

[21] As I noted above, and as outlined in more detail later in this order, section 65(8.1)(a) excludes certain records from the application of the *Act*. As will become apparent from the discussion below, section 65(10) creates an exception to the section 65(8.1) exclusion "only to the extent that it is necessary for the purpose of subclause 49(c.1)(i)."

[22] The net effect of this set of legislative provisions is that if a record qualifies for exemption under section 49(c.1)(i), then it remains subject to the *Act* even if it otherwise meets the requirements for exclusion from the scope of the *Act* under section 65(8.1). The effect of section 65(10) is, therefore, to preserve the application of the *Act* to records that are subject to this discretionary exemption.

[23] Although these provisions are somewhat circular, I will begin by addressing the

application of section 65(8.1) and the exception at section 65(10). This necessarily entails a discussion of section 49(c.1)(i), which I will address briefly in this section and more fully under Issue C.

[24] Section 65(8.1) of the *Act* excludes certain records relating to research and teaching from the *Act*. As a result, the *Act's* access scheme does not apply to them. The purpose of this provision is to protect academic freedom and competitiveness.³ The university submits that section 65(8.1)(a) applies to the majority of the records⁴ from the jurisdiction of the *Act*, but acknowledges that the section 65(10) exception to the exclusion applies to them. These provisions are as follows:

(8.1) This Act does not apply,

(a) to a record respecting or associated with research conducted or proposed by an employee of an educational institution or by a person associated with an educational institution.

(10) Despite subsection (8.1), this Act does apply to evaluative or opinion material compiled in respect of teaching materials or research only to the extent that is necessary for the purpose of subclause 49(c.1)(i).

[25] For the following reasons, I agree with the university that the section 65(10) exception applies. Therefore, the records are not excluded from the *Act* under section 65(8.1).

[26] *Research* is defined as "a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research." The research must be referable to specific, identifiable research projects that have been conceived by a specific faculty member, employee or associate of an educational institution.⁵

[27] Section 65(8.1) applies where it is reasonable to conclude that there is *some connection* between the record and the specific, identifiable "research conducted or proposed by an employee of an educational institution or by a person associated with an educational institution."⁶

[28] The university submits the records that remain at issue are comprised of emails between faculty members providing their opinions on the appellant's PhD dissertation at various stages of development. As such, the university submits the records are associated with a specific, identifiable research project conducting by an individual (i.e. the appellant) associated with an educational institution and are therefore subject to section 65(8.1)(a) of the *Act*. The university refers to Interim Order PO-3893-I, in which

³ Order PO-2693, *Carleton University v. Information and Privacy Commissioner of Ontario and John Doe, requester*, 2018 ONSC 3696.

⁴ All the records except records 37 and 90.

⁵ Order PO-2693.

⁶ Order PO-2942; see also *Ontario (Attorney General) v. Toronto Star*, 2010 ONSC 991 (Div. Ct.).

the adjudicator found that a PhD dissertation fit within the meaning of *research*. The university submits the records have a clear connection to the identifiable research project, as their sole purpose and function is to evaluate the appellant's dissertation for the purpose of determining whether the quality of his research meets the standards for continued progression in the Political Science PhD program.

[29] However, the university also notes the records are subject to the 65(10) exception to the 65(8.1) exclusion because they are comprised of confidential evaluation and opinion material compiled solely for the purpose of assessing the research of a person associated with an educational institution. The university submits the records at issue evaluate the actual dissertation and/or the research of the dissertation. The university states it withheld only the evaluation and assessments of the appellant's dissertation and that while the *Act* does apply to these records, section 49(c.1)(i) applies to exempt them from disclosure. I will consider the application of section 49(c.1)(i) in more detail under Issue C below, but some consideration of it is required here because it is referred to in section 65(10) itself.

[30] The appellant submits the records are not excluded from the scope of the *Act* under section 65(8.1). The appellant takes the position that the records are not related to his research. Rather, the appellant claims the records are all personal records. The appellant did not address the application of the exception in section 65(10).

[31] Based on my review of the records, I find that while they fall within the parameters of section 65(8.1), they are not excluded from the scope of the *Act* under section 65(8.1), due to the application of the exception to the exclusion found in section 65(10) of the *Act*.

[32] The records at issue consist of email correspondence between faculty members regarding the appellant's dissertation and research as well as the appellant's research proposal that has comments from an individual. While the university takes the position that section 65(8.1)(a) applies to the records, it also accepts that section 65(10) of the *Act* applies to bring the records under the jurisdiction of the *Act*.

[33] Based on my review, I find the records fall within section 65(8.1)(a) (subject to my discussion of the section 65(10) exception below). I agree with the university that each of the records is a record respecting research because they each contain a faculty member's comments relating to the appellant's PhD dissertation and/or research. Accordingly, I am satisfied there is some connection between the records and the appellant's *research* and the records fall within the ambit of section 65(8.1)(a) of the *Act*.

[34] However, I agree with the university that section 65(10) applies. As stated above, section 65(10) applies "to evaluative or opinion material compiled in respect of teaching materials or research" and then requires the consideration of section 49(c.1)(i) of the *Act*, which itself creates an exemption from the general right of access to an

individual's own personal information held by an institution.⁷

[35] The university accedes that section 65(10) applies in the circumstances of this appeal because the records are comprised of confidential evaluation and opinion material compiled solely for the purpose of assessing the research of a person associated with an educational institution. I agree with the university. For ease of reference, I set out section 65(10) again:

(10) Despite subsection (8.1), this Act does apply to evaluative or opinion material compiled in respect of teaching materials or research only to the extent that is necessary for the purpose of subclause 49(c.1)(i).

[36] Section 49(c.1)(i) of the *Act* states:

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

if the information is supplied explicitly or implicitly in confidence and is evaluative or opinion material compiled solely for the purpose of,

assessing the teaching materials or research of an employee of an educational institution or a hospital or of a person associated with an educational institution or a hospital.

[37] As I explain more fully under Issue C, the records at issue contain commentary and evaluations of the appellant's dissertation and academic research, and fall within the section 49(c.1)(i) exemption. As such, I find the records fall within the ambit of the exception in section 65(10) of the *Act*.

[38] In conclusion, I find the records are subject to the *Act* by virtue of the application of the exception in section 65(10).

Issue C: Does the discretionary exemption at section 49(c.1)(i) apply to the information at issue?

[39] 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.

[40] Under section 49(c.1), the institution may refuse to disclose evaluative or opinion material in certain circumstances. The university has claimed the application of section 49(c.1)(i), which states:

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

⁷ See Issue C below for a more fulsome explanation of this exemption.

if the information is supplied explicitly or implicitly in confidence and is evaluative or opinion material compiled solely for the purpose of,

assessing the teaching materials or research of an employee of an educational institution or a hospital or of a person associated with an educational institution or a hospital.

[41] I will begin my consideration of the application of section 49(c.1)(i) with an analysis of whether each record as a whole contains *personal information* and, if so, to whom it relates. *Personal information* is defined in section 2(1) of the *Act* as "recorded information about an identifiable individual."

Personal information

[42] 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.⁸ However, 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.⁹

[43] To qualify as personal information, it must be reasonable to expect that an individual will be identified if the information disclosed.

[44] The university submits the records contain the appellant's personal information. The university submits the appellant is acting in a personal capacity as an individual student conducting research under the supervision of faculty members, as part of an academic program administered by the university. The university submits the appellant was not an employee, but a "person associated with an educational institution" due to his enrolment as a graduate student in the Department of Political Science and the School of Graduate Studies. The university submits the records contain the personal information of the appellant because the appellant was acting in his personal capacity as a graduate student and researcher.

[45] The appellant submits the records do not contain *personal information* within the meaning of the *Act*.

[46] I have reviewed the records and find they contain the appellant's personal information, including: information relating to his education (which falls within the ambit of paragraph (b) of the definition of personal information in section 2(1) of the *Act*); the views or opinions of other individuals about the appellant (paragraph (g) of the definition); and the appellant's name, where it appears with other personal information relating to him (paragraph (h) of the definition).

⁸ See sections 2(3) and (4) of the *Act* and Orders P-257, P-427, P-1621, R-98005, MO-1550-F and PO-2225.

⁹ Orders P-1409, R-980015, PO-2225 and MO-2344.

[47] Having found that the records contain the appellant's personal information, I will now determine whether the exemption in section 49(c.1)(i) applies to exempt the records from disclosure.

Section 49(c.1)(i)

[48] The university submits that the records are comprised of email exchanges between faculty members evaluating the quality of the appellant's academic research and providing opinions on the substantive structural merits of the research. The university submits the opinions were provided with an expectation of confidentiality and the explicit purpose of producing a tailored set of comments to be communicated to the appellant. The university submits there is a long-standing practice at the university, and other universities generally, for faculty members who supervise and evaluate research to communicate frankly with each other respecting the research of supervised individuals, so as to collaboratively develop and formulate an accurate assessment of their research. The university states that some of this confidential assessment can be used to produce the accurate and useful feedback that is ultimately given to the student.

[49] In his representations, the appellant submits the information at issue is not evaluative or opinion material. Rather, the appellant submits that the "information is opinionative couched in evaluative phrasing."

[50] Based on my review of the records, I am satisfied they qualify for exemption under section 49(c.1)(i) of the *Act*. First, as discussed above, the records contain the appellant's personal information. Second, I am satisfied the university provided evidence to demonstrate the information contained in the records was supplied explicitly or implicitly in confidence. As the university submits, there is a clear interest in protecting the confidentiality of the evaluative commentary or opinions shared between faculty members in discussing the research and progress of its graduate students to ensure that faculty members can communicate in a free and frank manner. In Final Order PO-3089-F, the adjudicator considered the application of the related exemption in section 49(c.1)(ii), which protects evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for admission to an academic program. In finding the exemption applied, the adjudicator stated,

In reaching this conclusion, I find that evaluations and assessments such as the information the appellant seeks in this appeal is precisely the type of information at which section 49(c.1)(ii) is aimed, and that this exemption is clearly related to the legislative objectives of allowing frank, candid and complete information about a candidate's suitability, eligibility and qualifications for admission to an academic program of an educational institution to be reviewed and held in confidence.

I agree with and adopt this reasoning for the purposes of this appeal. The records at issue consist of evaluative commentary and opinions relating to the appellant's research. The faculty members provided each other with comments and opinions about

the appellant's research, dissertation and research proposal. Given these circumstances, it is clear there was a reasonable expectation of confidentiality in this exchange of evaluative or opinion material to allow the frank, candid and complete exchange of information about the appellant's research.

[51] Third, based on my review of the records, I am also satisfied the evaluative or opinion material was compiled solely for the purpose of assessing the appellant's research. It appears the appellant believes the faculty members created and shared the information in the records for purposes beyond assessing his research. However, it is clear from my review of the records that the commentary or evaluative materials is focused on the appellant's research and dissertation.

[52] Finally, I am satisfied that, as a PhD student at the university, the appellant is a "person associated with an educational institution." Given these circumstances, I find the records fit squarely within the exemption of section 49(c.1)(i) of the *Act*.

[53] In conclusion, I find the records are exempt from disclosure under section 49(c.1)(i) of the *Act*, subject to my review of the university's exercise of discretion below.

Issue D: Did the university exercise its discretion under section 49(c.1)(i)? If so, should I uphold the exercise of discretion?

[54] The exemption in section 49(c.1)(i) is discretionary and permits an institution to disclose the information subject to this exemption despite the fact that it could continue to withhold it. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so. The IPC may find 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 fails to take into account relevant considerations. In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations.¹⁰ However, the IPC may not substitute its own discretion for that of the institution.¹¹

[55] The university submits that it has properly and carefully exercised its discretion to apply section 49(c.1)(i) to withhold the records at issue. The university states it considered the purposes of the *Act*, including the principles that: information should be available to the public; individuals should have a right of access to their personal information; exemptions from the right of access should be limited and specific; and the privacy of individuals should be protected. The university states it carefully considered the importance of disclosure of information to individuals to whom it pertains. In this case, the university submits the records contain the appellant's personal information, relate to his own research and are clearly of a strong interest to him. The university submits it gave this factor as much weight as appropriate in deciding to disclose many of the responsive records to the appellant.

¹⁰ Order MO-1573.

¹¹ Section 43(2) of the *Act*.

[56] The university submits it also weighed the appellant's right of access against the purpose of the exemption in section 49(c.1)(i), which is intended to protect evaluations of academic works so that the assessor can be frank and provide their full, uncensored opinion of the quality of the academic work under review. The university considered the impact of the disclosure of the records in this instance on future evaluations of academic research, and submits that disclosure could reasonably be expected to create a chilling effect, which would "materially impair the provision of accurate, honest academic evaluations, which are essential to the integrity of research and pedagogy of advanced degree programs."

[57] In addition, the university submits it considered the appellant's stated reasons for his request, which relate to the breakdown in the relationship between the appellant and his co-supervisor. The university acknowledges it appears the appellant has concerns regarding the good faith evaluation and assessment of his academic research. The university submits it considered this factor in the context of the other relevant factors. However, it concluded that the possible value of disclosure of the appellant, even considering his strong personal interest, did not outweigh the potential harms to the research/academic evaluation process and the university. The university submits the appellant was provided ample and detailed feedback on his research and the disclosure of the records would not provide significant new information to outweigh the potential harms to evaluation of research, the freedom of faculty members to exchange their frank and honest views regarding research, and to pedagogy in research.

[58] The university submits it also considered the impact the disclosure would have on public confidence and the university's reputation. The university states it is known as a world class research institution with rigorous academic standards. The university submits its reputation would negatively affected in a significant way if faculty members could not provide their full and accurate opinions on research.

[59] Finally, the university submits it considered the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person. The university submits the information at issue is highly sensitive for the evaluators because of the frankness required of them in evaluating research to ensure accurate evaluations and assessments. The university submits there is a strong expectation of confidentiality with these evaluative records and a long-standing practice of keeping these records confidential, which increases the sensitivity of the information.

[60] The appellant submits the IPC should not uphold the university's exercise of discretion. The appellant did not elaborate on why he believes the university improperly exercised its discretion to withhold the records at issue under the exemption in section 49(c.1)(i).

[61] I reviewed the parties' representations and the information at issue. Based on this review, I am satisfied the university considered relevant factors in exercising its discretion and did not take irrelevant factors into account.

[62] Specifically, I am satisfied that in exercising its discretion under section

49(c.1)(i), the university considered the sensitivity of the information at issue, the purpose of the exemption claimed, whether the appellant had a compelling need for the information at issue particularly because the records relate to him and his research, and the purposes of the *Act* generally. I am also satisfied the university balanced the appellant's right of access to his personal information with the purpose of ensuring that evaluators can engage in free, frank and full discussions about academic research. There is no evidence before me to suggest the university took irrelevant considerations into account or that it exercised its discretion in bad faith or for an improper purpose.

[63] Accordingly, I am satisfied the university did not err in exercising its discretion to withhold information exempt under section 49(c.1)(i) and I will not interfere with it on appeal.

ORDER:

I uphold the university's decision and dismiss the appeal.

Original Signed by: _____
Justine Wai
Adjudicator

_____ April 27, 2022