Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4315

Appeal PA21-00225

University of Toronto

October 27, 2022

Summary: This appeal is from a decision of the University of Toronto (the university) to withhold records requested under the *Freedom of Information and Protection of Privacy Act* (the *Act*); the records relate to the requester. The university withheld some records under the discretionary exemption at section 49(a) (discretion to withhold requester’s personal information), read with section 19 (solicitor-client privilege). In addition, the university withheld some records, in full or in part, on the basis that they are not responsive to the request.

In this order, the adjudicator finds that the records withheld under section 49(a), read with section 19, have already been adjudicated on by the IPC, where the IPC found that the records are exempt under section 19. The adjudicator exercises her discretion under section 52(1) of the *Act* to decline to re-adjudicate that question. The adjudicator finds, therefore, that those records are exempt under section 49(a), read with section 19. Further, she upholds the university’s exercise of discretion under section 49(a). Finally, she finds that the remainder of the information withheld is non-responsive to the request, 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), 10(2), 24, 19, 49(a), 49(b), and 52(1).

Orders Considered: Orders PO-1755, PO-3871, and MO-1907.

Cases Considered: *Blank v. Canada Minister of Justice*, 2006 SCC 39; *Ontario (Public Safety and Security) v. Criminal Lawyers’ Association* 2010 SCC 23 (CanLII), [2010] 1 SCR 815.

OVERVIEW:

[1] This order resolves an appeal from the decision of the University of Toronto (the university) to deny access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to certain records which involve the requester. As I will explain elsewhere in this order, the Information and Privacy Commissioner of Ontario (IPC) has already adjudicated on some of the information at issue and I decline to revisit those findings.

[2] In response to the request, the university issued a decision providing partial access to the responsive records. The university withheld records under the discretionary exemption at section 49(a) (discretion to refuse requester's own information), read with the discretionary exemption at section 19 (solicitor-client privilege), the personal privacy exemption at section 49(b), and an exemption that is no longer at issue.[1] The university also deemed some records to be non-responsive to the request.

[3] The requester (now the appellant) appealed the university's decision to the IPC.

[4] The IPC appointed a mediator to explore resolution. During mediation, the appellant challenged the exemptions claimed by the university, and the adequacy of the university's search for responsive records. The university advised that, given the scope of the request, it was confident in the adequacy of its search for responsive records. As I explain below, the reasonableness of the university's search was not at issue before me.

[5] The university agreed, however, to revisit its decision to withhold records under section 49(a), read with section 19 of the *Act*, and subsequently issued a revised decision, waiving solicitor-client privilege for portions of a few pages that had been withheld and disclosing those pages to the appellant.

[6] No further mediation was possible. The appellant asked to proceed to the adjudication stage of the appeal process on the three issues of: section 49(a), read with section 19, section 49(b), and non-responsiveness.

[7] The appeal then moved to the adjudication stage, where an adjudicator may conduct an inquiry.

[8] I began a written inquiry under the *Act* by sending a Notice of Inquiry, setting out the facts and issues on appeal, first to the university, and then to the appellant. I

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[1] The university initially claimed the application of the personal privacy exemption at section 49(b) but, during the adjudication stage, claimed that all of that information is not responsive to the request, a finding that I uphold below.

sought and received written representations from both parties in response.[2]

[9] For the reasons that follow, I uphold the university's decision to withhold the records in full or in part, and dismiss the appeal. In this order, I make the following findings:

- The scope of the appeal at adjudication does not include the issue of reasonable search.
- The information initially withheld as non-responsive to the request, and the information initially withheld under section 49(b), is all non-responsive to the request.
- The information withheld under section 49(a), read with section 19, has already been adjudicated upon by the IPC (where the requester was not the person to whom the records relate and where the IPC found the records to be exempt under section 19 alone). Given the IPC's previous finding that the records are exempt under section 19, and since the parties agree that the records contain the appellant's personal information, the records are exempt under section 49(a), read with section 19 of the *Act*. I also find that the university exercised its discretion withhold the information under section 49(a), and I uphold that exercise of discretion.

RECORDS:

[10] The records at issue are emails (with or without attachments). Some of these records are withheld under section 49(a), read with section 19. Other records have been withheld as non-responsive to the request and/or under section 49(b).

ISSUES:

Preliminary issue: Is the reasonableness of the university's search an issue before me?

A. What is the scope of the request for records? Which records are responsive to the request?

B. Do the records contain the appellant's "personal information" as defined in section 2(1)?

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[2] The parties agreed to share their representations with each other, but having considered the appellant's representations, I determined that it was not necessary to seek further representations from the university, so I did not share the appellant's representations with the university. I also note that the appellant asked that I not share details from his representations that could identify him in the public order.

C. Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester’s own personal information, read with the section 19 exemption, apply to the information at issue?

D. Did the institution exercise its discretion under sections 49(a)? If so, should the IPC uphold the exercise of discretion?

DISCUSSION:

Preliminary issue A: Is the reasonableness of the university’s search an issue before me?

[11] During the inquiry, the appellant expressed concern about the reasonableness of the university’s search and asked me to order a further search. For the reasons that follow, I find that the issue of reasonable search is not properly before me.

[12] As noted, before moving to adjudication, this appeal went through the IPC’s mediation process. That involved opportunities for parties to communicate directly with a mediator about the appellant’s request.

[13] At the close of mediation, the mediator issued a report (the Mediator’s Report), and provided a copy to the parties. With a Mediator’s Report, the parties were sent a letter by the mediator, which states, in part:

> The mediation stage of this appeal has now been completed. Enclosed please find a copy of the Mediator’s Report setting out any issues that have been resolved and the issues that remain in dispute.
>
> The purpose of the Report is to provide the parties to an appeal with a record of the result of mediation and to provide the Adjudicator with information regarding records and issues that remain to be adjudicated.
>
> Please review the Report and if there are any errors or omissions, please contact me no later than [ten days from the date of the letter]. I will consider your comments and determine whether the Report should be revised. You need not contact me unless there are errors or omissions.

[14] The Mediator’s Report identified the issues remaining for adjudication to be access to the records withheld under sections 49(a), read with section 19, to the records withheld under section 49(b), and to the records withheld as non-responsive to the request.

[15] There is no evidence before me that the appellant attempted to have the Mediator’s Report corrected to have the issue of reasonable search added to the issues for adjudication.

[16] The IPC has previously considered the role of mediation in the appeal process. It has taken the approach that, generally, the results of mediation define the scope of the issues left to adjudicate.[3] Parties are provided a Mediator's Report that defines the remaining issues and, "[i]n the absence of clearly articulated disagreement from a party regarding the results of mediation, the appeal will proceed to inquiry on that basis."[4] The rationale for this was explained in Order PO-1755:

> . . . it is too late to make such a claim [that the results of mediation should not be respected] at this stage in the process [adjudication]. . . . In so finding, I am not saying that a party may not change his or her mind and back away from an agreement made in mediation, but that a decision must be made in a timely fashion and within the procedures which have been established by this office and which have been clearly communicated to the parties. To find otherwise would not only delay the inquiry process in that I would be required to essentially start the inquiry over again in order to introduce the new issues, but it would compromise the integrity of the appeals process itself by allowing a party to unilaterally frustrate the timely and orderly resolution of the appeal.

[17] I agree with this reasoning, and I adopt it here. Since the Mediator's Report indicated that the appeal was proceeding on the basis of issues other than reasonable search, and the evidence before me is that the appellant did not correct this, I find that raising arguments related to the reasonableness of the university's search during the inquiry is an attempt to re-open an issue that was removed from the scope of the appeal at mediation. I decline to re-open this issue in the circumstances.

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

[18] The university withheld some information as non-responsive to the request. I uphold that decision, for the reasons set out below.

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

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

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[3] See, for example, Orders PO-1755, PO-3126 and MO-2778.

[4] Order PO-1755.

> . . .
>
> (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).

[20] To be considered responsive to the request, records must "reasonably relate" to the request.[5] Institutions should interpret requests generously, in order to best serve the purpose and spirit of the *Act*. Generally, if a request is unclear, the institution should interpret it broadly rather than restrictively.[6]

Records initially withheld as non-responsive

Representations

[21] The university submits that the appellant provided sufficient detail for the university to identify records responsive to the request such that the university did not require clarification for the request to be processed. The university provided details about this, explaining why the request was clear enough to process without needing to request clarification, but I will not set out these details, to minimize the risk of identifying any individual. In any event, these details are not in dispute, in themselves.

[22] What the appellant does question is the university's decision to withhold portions of records that the university identified as non-responsive. The university states that these portions of the records are comprised of administrative email communications that were incidentally found in the original search for the appellant's name, because the appellant's name appeared earlier in the email thread. The university further explains that these portions of records withheld as non-responsive are general internal discussions of administrative policies and processes completely unrelated to the requested information. The university states that it sees the sole focus of the request to be access to the appellant's personal information.

[23] The appellant submits that the appeal is for any and all records relating to the appellant, whether or not the university realizes that the records may be helpful in some way to the appellant or not.

Analysis/findings

[24] Based on my review of the wording of the request, the parties' representations, and the portions of the records initially withheld by the university as non-responsive, I find that that information is indeed non-responsive to the request. The information is found in an email chain in which the appellant's name appears earlier on in the thread,

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[5] Orders P-880 and PO-2661.
[6] Orders P-134 and P-880.

as the university describes. Having reviewed the information withheld, the university's access decision, the university's representations, and the wording of the request, I am satisfied that this information is not "reasonably related" to the appellant's request and I uphold the university's decision to withhold the information in question as non-responsive.

Records initially withheld under section 49(b), but also described as non-responsive by the university during the inquiry

Representations

[25] The university submits that the portions of the records withheld under section 49(b) are not even responsive to the request because those portions are not about the appellant but are about other individuals and are unrelated to matters concerning the appellant. Further details about these records were provided by the university and shared with the appellant, but I will not set them out here, to avoid identifying the appellant in this public decision.

[26] In response, the appellant submits that the university has withheld some information that relates to him and is therefore possibly relevant and responsive to the request.

Analysis/findings

[27] Having considered the wording of the request, the parties' representations (and, in particular, the university's in relation to how it identified the responsive records), and the contents of the records themselves, I find that the information initially withheld under section 49(b) is, as the university now describes it, non-responsive to the request. Based on the evidence before me, I am satisfied that this information does not "reasonably relate" to the information specifically sought in the request.

[28] Since this information is non-responsive to the request, I need not consider the university's claim that it is also exempt under section 49(b). I uphold the university's decision to withhold it on the basis that it is not responsive to the request.

Issue B: Do the records contain the appellant's "personal information" as defined in section 2(1)?

[29] The university has withheld some of the records on the basis that section 49(a) (discretion to refuse access to a requester's own personal information), read with the solicitor client privilege exemption in section 19 applies. For the following reasons, I agree that the records contain the appellant's personal information.

[30] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." "Recorded information" is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or

maps.[7]

[31] Information is "about" the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.[8] In some situations, even if information relates to an individual in a professional, official or business capacity, it may still be "personal information" if it reveals something of a personal nature about the individual.[9]

[32] Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.[10]

[33] It is important to know whose personal information is in the record. If the record contains the requester's own personal information, their access rights are greater than if it does not.[11] Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.[12]

[34] Based on my review of the parties' representations, I find that there is no dispute that the records withheld under section 49(a), read with section 19, contain the appellant's "personal information," as that term is defined in section 2(1) of the *Act*. I agree with this, based on the wording of the request, the parties' representations, and the university's affidavit evidence. I am satisfied that it is not necessary to describe the nature of the personal information at issue,[13] or provide examples of it in this public order.

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[7] See the definition of "record" in section 2(1).

[8] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225. See also sections 2(3) and 2(4), which state:

> (3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.
>
> (4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

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

[10] Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

[11] Under sections 47(1) and 49 of the *Act,* a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

[12] See sections 21(1) and 49(b).

[13] Section 2(1) of the *Act* gives a list of examples of personal information. The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information (see Order 11). In addition, sections 2(2), (3) and (4) of the *Act* exclude some information from the definition of personal information. Sections 2(3) and (4) are described in Note 8. Section 2(2) states that personal information does not include information about an individual who has been dead for more than thirty years.

Issue C: Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester's own personal information, read with the section 19 exemption, apply to the information at issue?

[35] During the inquiry, the university argued that the information withheld under section 49(a), read with section 19, has already been found by the IPC to be exempt under section 19, when section 19 is read alone. I agree that the IPC made this determination in a prior order and the appellant does not dispute this. I am not identifying the order in this public decision because to do so could identify the appellant.

[36] Section 52(1)(b) of the *Act* provides an adjudicator, as a delegated decision-maker of the Commissioner, with the discretion to decide whether to conduct an inquiry to review a head's access decision in an appeal that has not been resolved during the mediation stage of the appeal process.[14] Past IPC orders have found that one of the grounds for not conducting an inquiry is that the IPC has previously issued a decision with respect to the same record.[15] I agree with this approach and adopt it here. Therefore, as I explain below, I find that the records are exempt from disclosure under section 49(a), read with section 19.

[37] Since the university provided representations and affidavit evidence indicating that the IPC had already found that the records are exempt under section 19,[16] I decided to consider whether I should exercise my discretion under section 52(1) of the *Act* not to review the university's decision to withhold the records under section 19 of the *Act*.

[38] In particular, I considered whether the rules against collateral attack and the doctrine of abuse of process may apply so as to prevent a party from re-litigating an issue that was previously decided.[17] Abuse of process is one of a number of doctrines or techniques that have been developed under the common law[18] to prevent abuse of the decision-making process by parties at proceedings before both administrative tribunals and the courts.[19] This doctrine prevents the re-litigation of issues where the precise criteria for issue estoppel do not apply. These principles are also reflected in section 52(1)(b) of the *Act*.

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[14] Section 52(1)(b) of *FIPPA* states: "The Commissioner may conduct an inquiry to review the head's decision if, the Commissioner has authorized a mediator to conduct an investigation under section 51 but no settlement has been effected."

[15] See, for example, Orders PO-3871 and MO-1907.

[16] The university also later provided a clarification/correction regarding an error found in its access decision, regarding the number of pages of records at issue. I shared this letter with the appellant.

[17] See *British Columbia* (*Workers' Compensation Board*) *v. Figliola*, 2011 SCC 52.

[18] Orders M-618 (aff'd *Riley v. Ontario* (*Information and Privacy Commissioner*) (March 23, 1999), Toronto Doc. 59/98 (Ont. Div. Ct.)), PO-2490 and PO-3184.

[19] *Danyluk v. Ainsworth Technologies Inc.,* 2001 SCC 44. Other such doctrines include issue estoppel, the rule against collateral attack, and *res judicata.*

[39] Given the university's evidence that the records withheld in this appeal under section 49(a), read with section 19, have already been found exempt under section 19 (read by itself) by the IPC, I asked the appellant to explain why these records should be treated differently in this appeal. The appellant stated that they should be, for reasons containing details that I will not set out here. Essentially, though, the appellant challenges the basis and/or correctness of the finding made in the other IPC order with respect to section 19 (and other aspects of that order), and gives reasons for doing so.

[40] However, the appeal before me is not the appropriate forum for challenging that previous IPC order. Orders of the IPC are final and there is no right of appeal. Parties to an appeal can apply to the Divisional Court for judicial review of an IPC decision. The IPC may also reconsider an order.[20] The IPC order that the appellant references was neither the subject of an application to the Divisional Court for judicial review, nor of a reconsideration request to the IPC. I am satisfied that although the appellant in the appeal before me was not listed as a party to the appeal resolved by the previous IPC order, he could have taken steps to challenge that order. I cannot say more without risking identifying the appellant. As there was no challenge to that previous IPC order by one of the parties entitled to do so, I am satisfied that there would not be any unfairness in declining to revisit the matter now.

[41] As mentioned, I agree with the approach taken in other IPC appeals, that the IPC decline to re-adjudicate claims already considered, and I adopt it here.

[42] The other IPC order to which the appellant refers was not the subject of an application to the Divisional Court for judicial review, or an IPC reconsideration order. Therefore, the IPC's finding in that order, that the records at issue are exempt under section 19, stands and is final.

[43] Given the IPC's final finding that the records are exempt under section 19, and since the parties agree that the records contain the appellant's personal information, it follows that the records are exempt under section 49(a), read with section 19. This is because the consideration of whether records are exempt under section 49(a), read with section 19, involves two questions: first, whether the records contain the appellant's personal information (and here, they do, as discussed under Issue B in this order), and second, whether the record is exempt under section 19 (an issue that was already adjudicated by the IPC in another order).

[44] Therefore, subject to my review of the university's exercise of discretion (Issue D, below), the records withheld under section 49(a) read with section 19, are exempt from disclosure.

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[20] The grounds for a reconsideration are narrow, and a reconsideration is not an opportunity to reargue the appeal. If a party believes that there was a fundamental defect in the adjudication process, or that there is a jurisdictional or clerical error in the order, they may seek reconsideration of the decision. The procedure for reconsideration is outlined in the *IPC Code of Procedure*, section 18.

Issue D: Did the institution exercise its discretion under sections 49(a)? If so, should the IPC uphold the exercise of discretion?

[45] The section 49(a) exemption is discretionary (the institution *"may"* refuse to disclose), meaning that the institution can decide to disclose information even if the information qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[46] 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.

[47] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.[21] The IPC cannot, however, substitute its own discretion for that of the institution.[22]

What considerations are relevant to the exercise of discretion?

[48] Some examples of relevant considerations are listed below. However, not all of these will necessarily be relevant, and additional considerations may be relevant:[23]

- 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 own personal information, exemptions from the right of access should be limited and specific, and the privacy of individuals should be protected,
- the wording of the exemption and the interests it seeks to protect,
- whether the requester is seeking his or her own personal information,
- 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, and
- the historic practice of the institution with respect to similar information.

The university's representations

[49] The university submits that it has properly and carefully exercised its discretion

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[21] Order MO-1573.
[22] Section 54(2).
[23] Orders P-344 and MO-1573.

to apply the 49(a) exemption in conjunction with section 19, in full consideration of all relevant factors, and that it did not consider any irrelevant factors.

[50] More specifically, the university states that in exercising its discretion to apply section 49(a), read with section 19, the university considered one of the overarching purposes of the *Act*, namely the principle that individuals have a right to access their own personal information, and that this right is a significant factor that weighs heavily in favour of disclosure. The university states that it also considered the purpose of the exemption, which is to protect the confidential nature of the solicitor-client relationship. The university submits that this confidentiality is essential to enable clients to communicate freely with their legal advisors without fear that their communications will be shared. It further states that the inherent value of this privilege has been upheld by the Supreme Court of Canada as fundamental to the proper functioning of the justice system.[24]

[51] Furthermore, the university describes the background situation as highly sensitive, due to the nature of the legal proceedings and ensuing impacts (which the university described in more detail in the representations shared with the appellant). In the circumstances, the university submits that it was demonstrably entitled to avail itself of the important discretion protected by section 19. The university relies on *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*[25] wherein the Supreme Court of Canada cites a series of cases establishing that solicitor-client privilege "has been held to be all but absolute in recognition of the high public interest in maintaining the confidentiality of the solicitor-client relationship." The university explains that its internal deliberations about its institutional response to certain issues, especially in the context of their high profile and the potential for litigation and other possible legal impacts and outcomes, clearly merited legal input. Therefore, the university submits these internal deliberations are "a solid and clear example of the kinds of information exchanges between legal counsel and their client that are at the heart of the purpose of solicitor-client privilege."

[52] In addition, the university states that it considered the fact that the appellant is seeking access to the appellant's own personal information; as a result, the university released all of the appellant's own personal information to him, with the sole exception of the solicitor privileged materials. The university also notes that a certain fact (which I will not elaborate on in this public order) is already known to the appellant, due to the appellant having received an email about that fact. As a result, the university submits that disclosure of the records withheld under section 49(a), read with section 19, would provide minimal new information to the appellant. The university states that it was not persuaded that the value of disclosure of the records to the appellant would outweigh the value of solicitor client privilege, and of its application in this instance.

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[24] The university cites *Blank v. Canada Minister of Justice*, 2006 SCC 39

[25] 2010 SCC 23 (CanLII), [2010] 1 SCR 815.

[53] Finally, the university states that it carefully considered whether there is a public interest in the records at issue and their release, including whether certain circumstances would weigh in favour of public interest in the records. The university says that it determined that these records are primarily personal in nature and that their disclosure would not serve the public interest in transparency.

The appellant's representations

[54] The appellant states that there is no way for him to meaningfully understand the value of the personal information in question, and that affidavit evidence should quite simply not suffice, despite the appellant not disputing the credibility of the university's counsel (whose affidavit was submitted in this inquiry). The appellant submits that nothing short of the university providing the IPC with the responsive records should suffice to determine whether discretion is being exercised in accordance with the exemption at section 49(a) of the *Act*. The appellant states that the university can then claim the exemption after "allowing the IPC to credibly verify that the records meet the test for exemption."[26]

Analysis/findings

[55] Having considered the parties' representations, I find that, in denying access to the records, the university exercised its discretion under section 49(a), and I uphold that exercise of discretion.

[56] To begin, the question of whether the records are exempt under section 49(a), read with section 19, is a separate question from the questions of whether the university has shown that it exercised its discretion under section 49(a) and whether the IPC should uphold that exercise of discretion. I disagree with the appellant that "nothing short of" the IPC examining the records over which solicitor-client privilege has already found to apply will allow for the determining whether the university exercised its discretion under section 49(a) and determining whether that exercise should be upheld.

[57] The university has identified the factors that it determined were relevant in the circumstances, in relation to the request that is before me, in exercising its discretion. Having considered the various factors explained in the university's representations and the circumstances of this appeal, I am satisfied that the university took into account all relevant considerations in deciding to withhold records under section 49(a). There is no evidence before me that the university considered irrelevant factors, or exercised its

[26] In addition, the appellant relies on the IPC's reasoning in an order examining the reasonableness of the institution's search, to reject the sufficiency of the affidavit evidence in that appeal, and makes other submissions relating to the aforementioned IPC finding about the records at issue in this appeal. These arguments are irrelevant to the question of whether the university exercised its discretion under section 49(a), and if so, whether the IPC should uphold that exercise. Furthermore, these arguments appear to be another attempt to challenge the IPC's previous (and final) finding about the records.

discretion in bad faith or for an improper purpose.

[58] For these reasons, I find that the university exercised its discretion under section 49(a) of the *Act* and I uphold that exercise of discretion, and dismiss the appeal.

ORDER:

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

Original signed by: October 27, 2022

Marian Sami
Adjudicator