Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4464

Appeal PA21-00032

Toronto Metropolitan University

November 30, 2023

Summary: Toronto Metropolitan University (the university) received a request from the appellant for access to information about herself. The university denied access to one of eight responsive records, an email thread discussing the appellant and student events. The university claimed that the record is exempt under section 49(a) (discretion to refuse requester's own information) read with 13(1) (advice or recommendations) of the *Act* because it contains advice or recommendations, and under section 49(b) because it contains mixed personal information belonging to the appellant and a university employee. In this order, the adjudicator partially upholds the university's decision. She finds that a portion of the record is exempt under section 49(a) read with section 13(1), and that a portion of the record is exempt under section 49(b). She orders the university to disclose a severed version of the record to the appellant.

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"), 13(1), 21(2)(a), 21(3)(h), 49(a) and 49(b).

Cases Considered: *John Doe v. Ontario (Finance)*, 2014 SCC 36.

OVERVIEW:

[1] This appeal is about access to an email thread that discusses the appellant.

[2] The appellant made a request to Toronto Metropolitan University[1] (TMU or the university) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to records about herself for a specified period of time.

[3] After the appellant submitted her request, she and the university communicated between themselves, and the appellant clarified the request to be for access to the following:

> All communication, notes, correspondence emails etc regarding me ([requester's name]) in the Office of Sexual Violence Support and Education - Ryerson University between February 1st 2017-June 1st 2017. I have record [sic] that communication took place between the office and the RSU (likely former employee [named person]) around February 10-15th 2017, regarding the Self Healing Through Yoga and Art that took place on February 13th 2017. I would like access to that as well as any other information related to me or personal information.

[4] When she did not receive a final access decision from the university, the appellant filed a deemed refusal appeal with the Office of the Information and Privacy Commissioner of Ontario (IPC) and an appeal[2] was opened to address the deemed refusal. While that appeal was underway, the university issued an interim access decision, by which it granted access to two responsive records it identified as records 1 and 2.

[5] The university conducted a further search and located additional responsive records. After notifying an individual who the university determined may have an interest in disclosure of responsive records,[3] the university issued a final access decision. The university wrote that it had located eight responsive records in total (including records 1 and 2 identified in its interim access decision) and that it was granting full access to all but one of the eight responsive records, an email thread it identified as record 7. The email thread contains a university administrator's comments in response to an email from a Toronto Metropolitan University Students' Union (TMUSU)[4] executive (the affected party, TMUSU or student union executive) discussing the appellant's participation in events co-sponsored by the university and the TMUSU.

[6] The university claimed record 7 is exempt under section 13 because it contains advice or recommendations. According to the university's final decision:

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[1] At the time of the request and the decision under appeal, this institution was known as Ryerson University. This institution has since been renamed Toronto Metropolitan University and is referred to as TMU or the university in this order.
[2] Appeal PA20-00717.
[3] In accordance with section 28(1) of the *Act*.
[4] At the time of the request and decision under appeal, the Toronto Metropolitan University Students' Union (TMUSU) was known as the Ryerson Students' Union (RSU). The RSU has since been renamed and is referred to as the TMUSU in this order.

> …there are eight (8) responsive records held by the Office of Sexual Violence Support and Education (OSVSE). Please note that this includes the records that were disclosed to you previously (Records 1 and 2) from the interim decision letter dated November 21, 2020.
>
> Ryerson has decided to provide full access to Records 1 to 6, and 8.
>
> Ryerson has denied access to Record 7 pursuant to FIPPA Section 13 (advice or recommendations)."

[7] With a final decision issued, the deemed refusal appeal was closed. The appellant then appealed the university's final decision to deny access to record 7. A mediator was appointed to explore resolution with the parties.

[8] During mediation, the university added the exemption in section 49(a), read with the advice or recommendations exemption in section 13, on the basis that the record may contain the appellant's personal information. Section 49(a) allows an institution to deny a requester access to their own personal information if section 13 applies to some or all of the record.[5]

[9] When access to record 7 could not be resolved through mediation, the appeal was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct a written inquiry.

[10] I conducted an inquiry during which I received representations from the university, the appellant, and an affected party. Before deciding whose personal information is contained in the record, I invited the parties to make submissions on whether the record contains personal information belonging to the appellant alone, or to the appellant and other identifiable individuals. This is because, if the record contains the appellant's personal information, I must consider the application of section 13(1) through the lens of section 49(a). If the record contains the mixed personal information of the appellant and another or other individuals, then I must consider section 49(b), which protects the other individuals' personal information from disclosure, except in certain circumstances. Accordingly, all parties were given the opportunity to comment on both section 49(a) and 49(b).

[11] In this order, I partially uphold the university's decision. I find that the record contains personal information belonging to the appellant and the university administrator. I find that the university administrator's personal information in the record is exempt under section 49(b). I also find that three points in the record are

[5] During mediation, the appellant also took the position that additional records exist that the university had not disclosed. The university conducted another search and reported that no additional responsive records were located. After further discussions between the parties, the issue of the reasonableness of the university's search for responsive records was removed as an issue and is not before me in this appeal.

exempt under section 49(a) read with section 13(1) because they fall within the meaning of advice or recommendations as contemplated by section 13(1) of the *Act*. I order the university to disclose a severed copy of the record to the appellant.

THE RECORD:

[12] There is one record at issue in this appeal. It is an email thread consisting of three emails: one originating email to the university from a TMUSU executive (the affected party, TMUSU or student union executive) to a university employee, the forwarded email from the employee to a university administrator, and the university administrator's reply to the employee. The university has collectively identified these three emails as record 7 and has denied access to the entire record.

ISSUES:

A. Does the record contain "personal information" as defined in section 2(1), and if so, whose personal information is it?

B. Does the discretionary personal privacy exemption in section 49(b) apply to some or all of the record?

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 13 exemption for advice or recommendations, apply to the information remaining at issue?

DISCUSSION:

Issue A: Does the record contain "personal information" as defined in section 2(1), and if so, whose personal information is it?

[13] To decide which sections of the *Act* may apply, I must first decide whether the record contains "personal information," and if so, whose. If the record contains the requester's own personal information (in this case, the appellant's), their access rights are greater than if it does not.[6] Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.[7]

[14] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual" and contains a non-exhaustive list of examples of

[6] 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 may still choose to disclose the information, even if an exemption applies.
[7] See sections 21(1) and 49(b).

personal information. Those relevant to this appeal are the following:

> (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, and
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> (g) the views or opinions of another individual about the individual.

[15] Information that does not fall under paragraphs (a) to (h) of the definition of personal information in section 2(1) may still qualify as personal information.[8] To qualify as personal information, the information must be about the individual in a personal capacity, and it must be reasonable to expect that an individual may be identified if the information is disclosed.[9]

[16] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.[10] Sections 2(3) and 2(4) of the *Act* state that:

> (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.

[17] In some situations, however, even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if it reveals something of a personal nature about the individual.[11]

Representations

[18] The appellant submits that the record is about her and that it is "likely to be with regards to a *final* decision about whether or not I was permitted to attend" a specific event taking place at the university.

[19] The university submits that the record contains "inferences about the personal information of the appellant" and that, while it does not expressly identify her, its

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[8] Order 11.
[9] Order PO-1880, upheld on judicial review in *Ontario* (*Attorney General*) *v. Pascoe*, [2002] O.J. No. 4300 (C.A.).
[10] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.
[11] Orders P-1409, R-980015, PO-2225 and MO-2344.

content relates to the matters described in her request.

[20] The university also says that the record contains personal opinions and views of a university administrator. The university says that, although expressed in response to an email sent by another staff member, the comments are based on the university administrator's personal beliefs and opinions and therefore qualify as the administrator's personal information under paragraph (e) of section 2(1) because of the "personal nature of their views and opinions."

[21] The university says that the record contains personal information of another affected individual (the affected party) and that, even if the record is redacted, the appellant would be able to identify the affected party because of the records already disclosed to her.

[22] The student union executive submits that the record contains his "personal contact information, both in the form of his email address, and a telephone number," and that it is reasonable to expect that he would be identified by the email address and telephone contact information provided in the record.

Analysis and findings

[23] I find that the record contains personal information belonging to the appellant and to the university administrator, but not the TMUSU executive.

The appellant's personal information

[24] The record contains the university administrator's and the TMUSU executive's views about the appellant and her views on an issue, about her prospective participation as a student in student events co-sponsored by the university and students' union, and the alleged effects of her attendance at such events because of those views.

[25] Although the appellant is not named in the record, it is apparent from the record itself and the parties' representations that the appellant is the catalyst and subject of the email discussion, and that discussion of "this student" is discussion of the appellant. Neither the university nor the TMUSU executive dispute this.

[26] The emails render the appellant identifiable by a discussion of her views and of actions proposed to be taken against her by the TMUSU because of their views of her, both individually and as a member of a class of individuals who share the same views on an issue. I find that the university administrator's and student union executive's views and opinions of the appellant are the appellant's personal information within the meaning of paragraphs (e) and (g) of section 2(1) of the *Act* because they are about the appellant.

TMU administrator

[27] I find that the university administrator's email is written by the administrator acting in a business, professional and official capacity to address an email from an official student organization discussing a student event and forwarded to the administrator by another university employee. However, I find that the university administrator opines, in a portion of the record, on a class of individuals who holds certain views and that those comments reveal the administrator's personal beliefs and opinions on an issue. I find that disclosure of the university administrator's views and opinions about a class of individuals would reveal something of a personal nature about the administrator and that they are the administrator's personal information under paragraph (e) of the definition of that term in section 2(1).

[28] In describing the record, above, I noted that it contains an email forwarded by another employee – the original recipient – to the university administrator who responded. This forwarded email contains no text but identifies the employee as the original recipient. The university did not make submissions about whether this is the employee's personal information. Based on my review of the record, however, I find that the record does not contain this employee's personal information. I find that this employee forwarded the TMUSU executive's email to the university administrator in a professional or business capacity, and that the employee's name, together with a university email domain address are not personal information and do not reveal anything of a personal nature about this employee.

The student union executive (affected party)

[29] The affected party's email identifies him as writing in his capacity as an executive member of the TMUSU. It includes his title, union affiliation, and TMUSU contact information associated with his executive position. This includes a TMUSU email address that contains his title but not his name before the "@ryersonu" domain, an office telephone number and extension, and TMUSU website and mailing address. The email discusses actions taken and proposed to be taken by the TMUSU should the university not assist with banning the appellant and refers to the TMUSU executive's "staff" when discussing the appellant's prospective attendance at TMU-TMUSU co-sponsored student events.

[30] In the circumstances, I find that the TMUSU executive's email is written to a university employee in his official capacity as an executive member of the TMUSU, is about student affairs and seeks direction regarding university-related matters, that the contact information is official and not personal, and that the email does not contain his personal information.

[31] Because I have found that the record contains personal information belonging to both the appellant and the university administrator, I will first consider whether disclosure of the university administrator's personal information would constitute an

unjustified invasion of her personal privacy under section 49(b). Next, I will consider whether any of the remaining portions of the record are exempt under section 13(1) through the lens of section 49(a) (which allows an institution to deny access to a requester's own personal information).

Issue B: Does the discretionary personal privacy exemption in section 49(b) apply to the information at issue?

[32] Section 47(1) gives individuals a general right of access to their own personal information held by an institution. Section 49, however, provides some exceptions from this right.

[33] Under section 49(b), where a record contains personal information of both the requester and another individual, as is the case here, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, an institution may refuse to disclose that information to the requester. Because the section 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[34] This determination involves weighing the appellant's right of access to her own personal information against the other individual's right to protection of his or her privacy. If disclosing the other individual's personal information would not be an unjustified invasion of their personal privacy, then the information is not exempt under section 49(b).

[35] Deciding whether disclosure would be an unjustified invasion of another individual's personal privacy is guided by sections 21(1) to (4). If any of sections 21(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy. Section 21(2) lists other factors that help in deciding whether disclosure would be an unjustified invasion of personal privacy, and section 21(4) lists situations where disclosure would not be an unjustified invasion of personal privacy. If any of the section 21(4) situations is present, sections 21(2) and (3) do not need to be considered. The parties do not rely on section 21(4), and I find that it does not apply in this appeal.

[36] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), the decision-maker[12] must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.[13] The list of factors under section 21(2) is not a complete list. The institution must also consider any other circumstances that are relevant, even if they are not listed in section 21(2).[14]

[12] The institution or, on appeal, the IPC.
[13] Order MO-2954.
[14] Order P-99.

Representations[15]

[37] TMU submits that disclosure of the record would constitute an unjustified invasion of the university administrator's personal privacy pursuant to section 21(3)(h) because it would reveal the administrator's political or religious beliefs or associations. The university submits that the administrator's own political beliefs are reflected in the administrator's opinion on how to address certain tensions on campus.

[38] The appellant submits that it is a matter of public interest if political or religious opinions of a senior university administrator are factors in a final decision to refuse students access to support services.[16]

Analysis and findings

[39] Under section 21(3)(h), a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

> …indicates the individuals racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

[40] In the circumstances, I find that inferences may be drawn about the university administrator's own political or religious beliefs and adherence to a political belief based on the administrator's views expressed in the record about a class of individuals who take a certain position on the underlying issue discussed in the email. I therefore find that the presumption against disclosure in section 21(3)(h) applies to a portion of the university administrator's email.

[41] The parties have not identified any factors in section 21(2) that may apply to weigh in favour or against disclosure of the university administrator's personal information in the record. The appellant submits that there is a public interest in disclosure of the university administrator's political or religious opinions if they were factors in a decision to deny the appellant access to student services. As noted above, although the public interest override in section 23 of the *Act*[17] is not an issue in this appeal, I understand the appellant's argument to also mean that disclosure is desirable for the purpose of subjecting the university to public scrutiny, which is the factor in section 21(2)(a) that favours disclosure if it applies. In the circumstances, however, I find that this factor does not outweigh the presumption against disclosure in section

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[15] The TMUSU executive also made representations on the application of section 49(b). However, because I have found that the record does not contain his personal information, section 49(b) does not apply to him.

[16] The public interest override in section 23 of the *Act* is not at issue in this appeal and is therefore not considered in this order.

[17] Section 23, "the public interest override," applies in certain circumstances where an exemption would otherwise be made out. It states that "An exemption from disclosure of a record under sections 13, 15, 17, 18, 20, 21 and 21.1 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption."

21(3)(h) where the university administrator expresses views about a social issue apart from, or in addition to, a discussion of options on how to respond to the TMUSU executive's email about the appellant, and where the university administrator's personal views can be severed.

[42] Accordingly, I find that the university administrator's email contains the university administrator's personal information and that this portion of the record is exempt because disclosure of it is presumed to be an unjustified invasion of the administrator's personal privacy, and because no factors apply to weigh in favour of disclosure of this personal information. I will therefore order the university administrator's personal information to be severed from the portions of the record that I find must be disclosed to the appellant.

[43] I will next address whether any of the remaining information in the record is exempt under section 49(a), read with section 13(1).

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 13 exemption for advice or recommendations, apply to the information remaining at issue?

[44] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49(a), which provides for some exemptions from this general right, recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant access to one's own personal information.[18]

[45] In this case, the university relies on section 49(a) read with section 13(1) to deny the appellant access to the entire record. Section 49(a) allows the university to deny access to some or all of a record if the record would be exempt under section 13(1).

[46] Section 13(1) is also discretionary and allows an institution to deny access to a record where disclosure would reveal advice or recommendations of an officer or employee of the institution. Section 13(1) states that:

> A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of an officer or employee of an institution or a consultant retained by an institution.

[47] The purpose of section 13(1) is to preserve an effective and neutral public service by ensuring that people employed or retained by institutions are able to freely and frankly advise and make recommendations within the deliberative process of

[18] Order M-352.

government decision-making and policy-making.[19]

[48] "Advice" and "recommendations" have distinct meanings. "Recommendations" refers to material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised, and can be express or inferred.

[49] "Advice" has a broader meaning than "recommendations." It includes "policy options," which are lists of alternative courses of action to be accepted or rejected in relation to a decision that is to be made, and the public servant's identification and considerations of alternative decisions that could be made. "Advice" includes the views or opinions of a public servant as to the range of policy options to be considered by the decision-maker even if they do not include a specific recommendation on which option to take.[20] "Advice" involves an evaluative analysis of information. Neither of the terms "advice" or "recommendations" extends to objective information or to factual material, or background information.[21]

[50] Advice or recommendations may be revealed in two ways:

- the information itself consists of advice or recommendations
- the information, if disclosed, would permit the drawing of accurate inferences as to the nature of the actual advice or recommendations.[22]

[51] The application of section 13(1) is assessed as of the time the public servant, or in this case, the university administrator, prepared the advice or recommendations.

Representations

The university's representations

[52] The university says that the record contains both advice and recommendations of a senior administrator at the university "on matters that fall within the scope of their employment-related duties." The university says that the advice and recommendations do not contain any factual material but rather contain recommended courses of action for the university. The university says that the advice relates to an official student union group which the university says is a separate and distinct legal entity and is intertwined in the university administrator's email in a way that cannot be severed.

The affected party's representations

[53] The affected party submits that the record contains advice and recommendations to and from himself and the university and that "[b]oth the University and [the affected

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[19] *John Doe v. Ontario (Finance)*, 2014 SCC 36, at para. 43.
[20] *John Doe*, above, at paras. 26 and 47.
[21] Order PO-2677.
[22] Order P-1054.

party] acted upon some of the recommendations that they had provided to each other."

The appellant's representations

[54] The appellant submits that the record likely relates to a final decision about whether she would be permitted to attend a student event. She submits that the university administrator is a senior administrator with final decision-making power over the appellant's ability to attend an event. She argues that, because any advice or recommendations in the record were likely "flowing downward," and not upward to a final decision-maker, they do not qualify for the section 13(1) exemption.[23] The appellant has attached other emails to her representations between the university and the TMUSU executive that she says indicate the TMUSU was awaiting a final decision from the university on whether or not the appellant would be permitted to attend an event, or whether the event would need to be modified to accommodate the appellant's attendance.[24]

Analysis and findings

[55] Based on my review of both the record and the university's submissions, I find that only a portion of the university administrator's email falls within the exemption at section 49(a), read with section 13(1). The portion that I find to be exempt contains three points that set out three possible options for how to respond to questions posed by the TMUSU executive's email.. I find that the rest of the record does not contain advice or recommendations and therefore does not fall within the scope of the exemption claimed by the university.

[56] I am guided in my findings by the Supreme Court of Canada's 2014 decision in *John Doe v. Ontario (Finance)*,[25] in which the court determined how the advice or recommendations exemption should be interpreted and applied. The Supreme Court confirmed that the purpose of the exemption was identified in the Williams Commission Report[26] as being to "preserve an effective and neutral public service so as to permit public servants to provide full, free and frank advice." The Williams Commission Report canvassed the rationale for the advice or recommendations exemption, and stated that:

> First, it is accepted that some exemption must be made for documents or portions of documents containing advice or recommendations prepared for the purpose of participation in decision-making processes. Second,

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[23] Citing Order PO-3052.

[24] The appellant also submits that there is a compelling public interest in disclosure of any advice or recommendations that outweighs the purpose of the section 13(1) exemption (the "public interest override" in section 23 of the *Act*). However, as noted earlier, the public interest override is not an issue in this appeal, was not identified as an issue during mediation, and was not part of the inquiry. I have therefore not considered it in this order.

[25] 2014 SCC 36.

[26] *Public Government for Private People: The Report of the Commission on Freedom of Inn and Individual Privacy*, 1980, vol. 2 (Toronto: Queen's Printer, 1980).

> there is a general agreement that documents or parts of documents containing essentially factual material should be made available to the public. If a freedom of information law is to have the effect of increasing the accountability of public institutions to the electorate, it is essential that the information underlying decisions taken as well as the information about the operation of government programs must be accessible to the public.

[57] In *Finance*, the Supreme Court accepted that material relating to a suggested course of action that will ultimately be accepted or rejected by the person being advised falls into the category of "recommendations," while "advice" would include a public servant's view of policy options to be considered by a decision-maker. The court also found that the exemption applies to a public servant's identification of various options to be considered by a decision-maker as well as a list of the considerations of advantages and disadvantages of alternative courses of action.

[58] From my review of the record, I am satisfied that a portion of the university administrator's reply contains recommendations from the administrator to another employee (the individual to whom the TMUSU executive wrote) about responding to the TMUSU executive's email. It sets out three possible courses of action for the employee to consider in responding to, or addressing, the TMUSU executive's comments. It is immaterial whether any of the three possible courses of action were accepted or followed. What matters is that the email contains three options to consider when responding to the TMUSU executive. I find that the three options contain recommendations and allow for a free and frank discussion between university employees regarding how to respond to the TMUSU executive. I therefore find that the three points are exempt under section 49(a) read with section 13(1) of the *Act*.

[59] I find that the remainder of the email, however, does not relate to a discussion of a suggested course of action or to the administrator's view of options to be considered by a decision-maker (in this case, the employee responding to the TMUSU executive). I find that the remainder of the email does not contain or reveal any "advice or recommendations" for the purpose of section 13(1).

[60] Based on my review of the record I also find that the TMUSU executive's email does not itself contain any discussion of policy options or recommendations, but rather that it seeks direction from the university as a co-sponsor of an event.

[61] For these reasons, I find that only the three proposed options expressed by the university administrator for the university employee to consider in responding to the TMUSU executive's email are exempt under the section 49(a) read with section 13(1).

The university's exercise of discretion under sections 49(a) and 49(b)

[62] The sections 49(a) and (b) exemptions are discretionary, meaning that the

university can decide to disclose information that qualifies for exemption. The university must therefore exercise its discretion in applying the section 49(a) exemption read with section 13. On appeal, the IPC may determine whether an institution has failed to do so.[27]

[63] I am satisfied that the university properly exercised its discretion in denying access to the portions of the record that I have found to be exempt (namely, the three points that I have found to be exempt under section 49(a) read with section 13(1) and the university administrator's personal information that I have found to be exempt under section 49(b)). I find that the university considered the purposes of the *Act* and I have no basis to conclude that the university exercised its discretion in bad faith or for an improper purpose. I therefore uphold the university's exercise of discretion with respect to the portions of the record that I have found to be exempt.

ORDER:

1. I uphold the university's decision in part.

2. I order the university to disclose to the appellant a severed version of record 7, in accordance with a copy of the record being provided with the university's copy of this order. The university shall disclose a copy of the severed record to the appellant by **January 10, 2024** but not before **January 4, 2024.**

3. In order to verify compliance with this order, I reserve the right to require the university to provide me with a copy of the record disclosed to the appellant.

Original Signed by: November 30, 2023
Jessica Kowalski
Adjudicator

[27] Where the IPC determines that an institution erred in exercising its discretion (if, for example, it does so in bad faith or for an improper purpose, or fails to take into account relevant considerations but considers irrelevant ones), the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations, but cannot substitute its own discretion for the institution's.