

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-4677

Appeal PA22-00291

University of Guelph

July 14, 2025

**Summary:** The appellant made a request under the *Freedom of Information and Protection of Privacy Act* for records relating to the provision of alternatives to the use of live animals in courses at the University of Guelph. The university located responsive records and granted the appellant partial access to them. Relevant to this appeal, the university withheld Animal Use Protocols from disclosure, claiming they are excluded from the scope of the *Act* under the research exclusion in section 65(8.1)(b). The appellant appealed the university's decision.

In this order, the adjudicator finds the Animal Use Protocols qualify for exclusion under section 65(8.1)(b) because they are teaching materials collected, prepared or maintained by an employee of the university for use at the university. The appeal is dismissed.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, section 65(8.1)(b).

**Orders and Investigation Reports Considered:** Orders PO-3642 and PO-3943.

### OVERVIEW:

[1] The appellant made a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the University of Guelph (the university) for

All protocols, policies, purchasing records and inventory records, including student policies from the veterinary program, related to the provision of alternatives to dissections and live animal labs for students in both core and

elective courses. This would include documents on the procurement of alternatives and on the sourcing of those alternatives in the case of tissues, cadavers and cadaver parts. We define alternatives as tools, educational aids or teaching approaches that replace animal use in education. Alternatives can include but are not limited to simulators and other skills models, ethically-sourced cadavers, and supervised training in a clinical setting on real animal patients who require or benefit from the procedures.

All protocols, policies, purchasing records and inventory records, related to the 3Rs (Refinement, Reduction and Replacement) as required by the Canadian Council on Animal Care.

[2] The university located records responsive to the appellant's request and granted partial access to them. The university claimed some of the records were outside the scope of the *Act* as they fell under the exclusion for teaching materials in section 65(8.1)(b).<sup>1</sup>

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

[4] During mediation, the appellant confirmed their interest in the Animal Use Protocols that are subject to the university's section 65(8.1)(b) exclusion claim. The university maintained its decision to deny the appellant access to these records.

[5] As the parties did not reach a mediated resolution, the appeal was transferred to the adjudication stage of the appeals process. I sought and received representations from the university and the appellant.

[6] In this order I find the records are outside the scope of the *Act* due to the application of the exclusion in section 65(8.1)(b). I uphold the university's decision and dismiss the appeal.

## **RECORDS:**

[7] There are 46 Animal Use Protocols at issue in this appeal, totalling 627 pages.<sup>2</sup>

## **DISCUSSION:**

[8] The sole issue in this appeal is whether, as the university claims, the exclusion in

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<sup>1</sup> The university also claimed some of the records are exempt under the discretionary exemptions in sections 14(1)(e) (endanger life or safety) and (i) (security of a building) and 20 (endanger life or safety), and the mandatory exemptions in sections 17(1) (third party commercial information) and 21(1) (personal privacy) of the *Act*. However, given my finding below, I do not need to consider these exemptions in this decision.

<sup>2</sup> I note the university originally identified 77 pages of responsive records. The number of pages was clarified during the inquiry.

section 65(8.1)(b) applies to the Animal Use Protocols (AUPs) at issue. Section 65(8.1)(b) states,

This Act does not apply to a record of teaching materials collected, prepared or maintained by an employee of an educational institution or by a person associated with an educational institution for use at the educational institution.

[9] Section 65(8.1) excludes certain records relating to research and teaching from the *Act*. As a result, the *Act*'s access scheme does not apply to these records. The purpose of this provision is to protect academic freedom and competitiveness.<sup>3</sup>

[10] In order for section 65(8.1)(b) to apply, the university must satisfy the following three-part test:

1. The record in question must be a "record of teaching materials."
2. The record must be "collected, prepared or maintained by an employee of an education institution or by a person associated with an educational institution."
3. The record must be collected, prepared, or maintained by such person "for use at the educational institution."

[11] Sections 65(9) and (10) create exceptions to the exclusions found at section 65(8.1). These sections state:

(9) Despite subsection (8.1), the head of the educational institution or hospital shall disclose the subject matter and amount of funding being received with respect to the research referred to in that subsection.

(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 it is necessary for the purpose of subclause 49(c.1)(i).

### **Parties' representations**

[12] The university claims the AUPs fall squarely within the section 65(8.1)(b) exclusion because they are records of teaching materials that were collected, prepared, or maintained by employees of or persons associated with the university, and they were collected, prepared, and maintained for use at the university.

[13] To support its arguments, the university provided the IPC with two affidavits. The first was sworn by the Director of Animal Care Services in the Office of Research at the university (the director). The second was sworn by the Dean of the Ontario Veterinary

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

College (the dean).

[14] The university and affiants provided some background information regarding the AUPs, their creation, and purpose. The university and director explain that AUPs are research- and teaching-related documents prepared by university course instructors and researchers and submitted for review by the university's Animal Care Committee. The director explains the university is governed by the Ontario *Animals for Research Act* and its regulations, which impose various requirements on the use of animals for research purposes. The director explains, for example, prior to the conduct of any research project using animals, a research proposal must be filed "setting forth the nature of all procedures to be used in connection with such animals, the number and type of animals to be used and the anticipated pain level that any such animal is likely to experience."

[15] In addition, as a recipient of research funding from the federal granting councils, the university must adhere to the policies and guidelines of the Canadian Council on Animal Care (the CCAC). The CCAC is the national oversight body for animal-based scientific activities in Canada. The director submits the CCAC's guidelines and policies "establish the ground rules and basic requirements for each institutional animal care and use program" in Canada. One such requirement is the creation of an animal care committee at each institution conducting animal-based research, teaching or testing. The CCAC also established a policy providing that one of the responsibilities of an animal care committee is to "[r]equire all animal users to complete an animal use protocol form" and includes a description of the required content.

[16] In accordance with the requirements of the *Animals for Research Act* and the CCAC, the university submits it established an Animal Care Committee (the Committee) which is a standing committee of the university's Research Board. The university submits the Committee is vested by the university's "Animal Care Policy and Procedures" (the policy) with responsibility for ensuring the human care and use of animals in the university's programs. The university submits the Committee evaluates all activities involving animals.

[17] The university explains the policy requires an AUP be prepared and submitted for review by the Committee whenever a university researcher or course instructor will conduct research involving the use of live animals, teach a class involving the use of live animals, or engage in any other activity pertaining to the care, use, or study of animals, including breeding, holding, display, competition, and/or sample collection. The university submits the substance of the AUPs, and the rules and standards associated with their review, are the same regardless of the purpose for which they were created. In all cases, the university submits the AUPs address in some detail how the animal will be used and, as applicable, the research or teaching context for the animal use.

[18] The director explains an AUP prepared in support of the use of animals for teaching purposes must explain in some detail the teaching objectives of the course, the course instructor's teaching approach in the course, and precisely how live animals will be used

in, and support, the teaching exercise. The director further explains that each AUP typically includes the following:

- The course name, the instructor's name, and the names and contact information of the other instructors and staff involved in conducting the course
- The "highest level of intrusion" to which an animal is subjected in the course
- An explanation regarding the purpose of animal use
- Each procedure to be performed on the animals in accordance with the CCAC's "Category of Invasiveness"
- The "instructional principles" the course addresses, which may involve discussion of the skills to be taught in the course, other courses and curricula relating to the course, and the overlong learning objectives of the course, along with discussion of the topic or subject matter of the portion of the course, the specific kinds of knowledge to be obtained by students through the use of live animals
- The personnel associated with the course
- Each type of animal being used in the course, details on the specific numbers, ages, species, and sexes of the animals to be used, the source of the animals, the disposition of the animals after their use, the building or facility they will be housed during the course, how the total number of animals to be used was determined, what consideration was given to reduce the use of animals, the characteristics of the species or strain or animal that make it appropriate for the teaching objectives, the necessity of using animals, alternatives to animal use already incorporated into the course design, and ways in which the environment of the animals is being enriched
- The criteria for removing any animals for use in the course
- Details about each procedure being performed on the animals
- A "sequential description of the use of animals" in the teaching exercise
- Description of the frequency of observations and methods for monitoring the condition of the animals
- How the instructor is maximizing the education gain from the animals used, the ratios of participant to animal or group of animals, and the ratio of participants to instructors

[19] The university explains that once the AUP is prepared for teaching purposes, as is the case with the AUPs at issue, the university submits it to the Committee which reviews

the proposed use of live animals as described in the AUP. The Committee then approves or does not approve the proposed animal use for the particular course. The university submits the information contained in the AUPs is treated as confidential throughout the AUP submission and review process. The university submits that course instructors are assured, and operate on the understanding, that their research and/or teaching information contained in the AUPs will be treated as confidential.

[20] Given this context, the university submits the AUPs “fall squarely within section 65(8.1)(b)”. The university submits the AUPs are records of teaching materials collected, prepared or maintained by employees of the university, and were collected, prepared, and maintained for use at the university. As such, the university takes the position that each part of the test for exclusion under section 65(8.1) has been met.

[21] First, the university submits the AUPs are “inextricably linked to the University’s teaching mission” because they are prepared and submitted for review when a university course instructor intends to teach a class involving the use of live animals. Further, the university submits the substantive content of the AUPs relates exclusively to teaching. The director submits the AUPs “speak at length” about course content and design, about teaching objectives and methodology. The dean further submits the AUP serves as a “roadmap for the use of animals in the teaching of the course.” The university submits the content of the AUP clearly relates to, supports, and is instrumental to, the teaching of the course to which the AUP pertains.

[22] Second, the university submits the AUPs are prepared by course instructors who are employees of the university. The university further submits the AUPs are collected and maintained by the Committee to enable the Committee to carry out its mandate and responsibilities.

[23] Third, the university submits AUPs are clearly collected, prepared, or maintained “for use at an educational institution”, thereby satisfying the third part of the section 65(8.1)(b) test. The university submits the AUPs are prepared by university course instructors, submitted to the Committee to allow it to carry out its responsibilities and then enable the university to deliver courses.

[24] Therefore, the university submits the records qualify for exclusion from the *Act* pursuant to section 65(8.1)(b). The university further submits that none of the exceptions to the exclusion in sections 65(9) and (10) apply.

[25] Finally, the university submits the principles of academic freedom are squarely engaged by the potential disclosure of the AUPs. The dean submits the AUPs are both “expressions of” and “protected by” the principle of academic freedom. He further submits that one of the central tenets of academic freedom is the ability of an academic to make decisions about their course content and pedagogy. The university submits the AUPs are prepared as part of the course design process to demonstrate the appropriateness of the proposed use of live animals in the course. The university states the AUP contains detailed

descriptions of the course, including its content, its learning objectives, the instructor's teaching methodology, and the pedagogic rational for using the specific animals proposed. The university submits these are all topics informed by and expressive of the course instructor's academic freedom. The dean submits the AUPs have been treated as confidential throughout the AUP submission and review process to protect the instructor's academic freedom.

[26] The appellant takes the position that the principle of severance should apply to the records subject to section 65(8.1)(b). The appellant takes issue with the university's "blanket argument" regarding the exclusion and submits that "certain information may be released." The appellant requests that the IPC adopt a "narrower interpretation of Section 65 claims and a line-by-line review by the University of the records for this" claim.

[27] The appellant submits that other academic institutions have released animal teaching and research protocols. The appellant submits the University of Saskatchewan/Western College of Veterinary Medicine responded to her request by disclosing information relating to alternatives to using live animals, including simulations, and the reduction means taken. The appellant provided a redacted copy of an Animal Use Protocol submitted to the University of Saskatchewan.

[28] The appellant also submits the AUPs are not "teaching/research materials", but "summary outlines" where severances can be done to remove personal data or information on one's teaching abilities. The appellant submits the university should be required to disclose the summary outlines because they fall within the exception to the exclusion in section 65(9) of the *Act*.

[29] In response, the university submits the AUPs are granular and detailed. The university submits they are not "summary outlines" as the appellant suggests. Rather, the university claims they contain "considerable detail about the course content and design, teaching objectives and methodology, and each proposed animal use."

### **Analysis and findings**

[30] I have reviewed the AUPs at issue and the parties' representations. For the reasons that follow, I find the AUPs are excluded from the scope of the *Act* under section 65(8.1)(b). I make this finding because the AUPs contain teaching materials collected, prepared or maintained by an employee of the university for use at the university.

[31] First, I note the appellant takes the position that the IPC should adopt a "narrower interpretation of [the university's section 65 claim] and a line-by-line review." The appellant claims the "principal of severance applies to the materials claimed as Section 65(8.1)(b)." The appellant is not correct. The IPC has consistently taken the position that when determining whether the exclusions in the *Act* apply, one must examine the record as a whole rather than looking at individual pages, paragraphs, sentences or words.<sup>4</sup> In

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<sup>4</sup> See, for example, Orders M-797, P-1575, PO-2531, PO-3572 and PO-3642.

Order PO-3642, the adjudicator stated,

... the question is whether the collection, preparation, maintenance or use of the record, as a whole, is sufficiently connected to an excluded purpose so as to remove the entire record from the scope of the *Act*. This [record-by-record] approach to the exclusions is consonant with the language of the exclusions, which applies to records that meet the relevant criteria. I also find it corresponds to the Legislature's decision not to incorporate into the *Act* a requirement for the severance of excluded records, in contrast to its treatment of records subject to the *Act's* exemptions.<sup>5</sup>

[32] In this case, the appellant claims they seek access to records that deal with university policies on replacements and substitutes to animal research. However, as a matter of statutory interpretation with respect to the exclusion in section 65(8.1)(b), I find this information, if it is contained in the AUPs, cannot simply be severed or extracted from the AUPs and considered in isolation. Instead, based on the whole records approach that the IPC has taken with respect to exclusions such as 65(8.1)(b), the information the appellant seeks must be considered in the context of the records in which they appear.

[33] The appellant also submits that other academic institutions have disclosed AUPs upon request. The appellant provided the IPC with a heavily redacted copy of an AUP submitted to the University of Saskatchewan. I have reviewed the AUP submitted to the University of Saskatchewan and it appears that most of the details regarding the course and the way animals will be used in the course were redacted. In any case, the fact that another institution in another jurisdiction may have disclosed limited information in an AUP has no bearing on whether the records before me are excluded from the scope of the *Act* and is not a relevant consideration here. As stated above, the exclusion is applied record-by-record and not line-by-line. Therefore, this submission has no relevance to the consideration of whether the records before me are excluded under the *Act*.

[34] I have reviewed the parties' representations and the AUPs that are at issue. I find the university has provided sufficient evidence to show the AUPs, which contain detailed descriptions of the courses to be taught, the methods and procedures to be followed regarding the use of live animals, and the teaching objectives and methodology, are teaching materials prepared by university employees and collected and maintained for use by the university.

[35] I agree with the university that the AUPs contain information that qualifies as "teaching materials." The term *teaching materials* is not defined in the *Act* and the IPC has limited jurisprudence interpreting this term.

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<sup>5</sup> Section 10(2) of the *Act* states: "If an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 12 to 22 and the head of the institution is not of the opinion that the request is frivolous or vexatious, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions."



[36] In Order PO-3943, the adjudicator accepted that records such as course syllabi can be considered teaching materials under the *Act*. In that decision, course syllabi were described as outlines created by faculty members for their courses and include their vision for the course as well as a more detailed course description and objectives. The course syllabi before the adjudicator in Order PO-3943 also included reading lists and schedules, presentation and assignment topics, other instructional materials, and institutional policies and procedures relating to the course or student. Upon review of the records, the adjudicator accepted that teaching materials may come in the form of course syllabi, although she ultimately found the record before her, a report on a review of the Criminology Program at York University, did not qualify for exclusion.

[37] I find the AUPs before me to be distinguishable from the report before the adjudicator in Order PO-3943 although her finding that course syllabi are “teaching materials” is helpful. The AUPs were created by the course instructors themselves to document the procedures to be used in connection with the animals proposed to be used. The records contain detailed course descriptions as well as the “instructional principles” guiding the instructors’ teaching. I agree with the university that the AUPs contain detailed descriptions of the courses and their goals and do not contain “summary outlines” as the appellant suggests. The AUPs also contain a clear “roadmap” as to how the course objectives will be achieved by the instructors and, more specifically, why the use of particular animals is necessary and how these animals will be used. Overall, I find the AUPs reflect the instructor’s principles, methods, and plans regarding their teaching goals in the course. In other words, I find the AUPs contain far more detail and information regarding the course and method of teaching than a course syllabi, which the IPC has found to constitute “teaching materials.”

[38] I acknowledge the appellant’s claim that some of the information in the AUPs may not contain “teaching materials.” However, as discussed above, the exclusion applies to a record in its entirety. Accordingly, if the record contains information that qualifies as “teaching materials”, the record as a whole is excluded unless one of the exceptions to the exclusion applies. Upon review, I find the AUPs contain granular and detailed information relating to the instruction of the courses at issue. Specifically, they contain detailed descriptions of the research problems or instructional principles the course intends to address, the impact of the instruction to be offered, and the rationale for the use of live animals in the course at issue. Based on my review of the AUPs, I find they clearly contain information that would be considered “teaching materials”, thereby satisfying the first part of the three-part test for section 65(8.1)(b).

[39] In addition, I find the second and third parts of the three-part test for section 65(8.1)(b) have been met. Specifically, the AUPs were prepared by course instructors, who are university employees, and these records were collected or maintained for use and review by the Committee, which is a part of the university. As a result, I find the AUPs qualify for exclusion under section 65(8.1)(b) in their entirety.

[40] I have considered the exceptions to the exclusion in sections 65(9) and (10) and

find neither apply. First, I find section 65(9) does not apply because the AUPs do not contain the subject matter and amount of funding being received with respect to research. Second, I find section 65(10) does not apply because the AUPs do not contain evaluative or opinion material compiled in respect of teaching materials in order to assess the teaching materials.

[41] In conclusion, I find the AUPs are excluded from the scope of the *Act* by section 65(8.1)(b). In these circumstances, it is not necessary to consider whether the records are also exempt from disclosure under the alternative exemptions claimed by the university for these records.

**ORDER:**

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

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

Justine Wai  
Adjudicator

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July 14, 2025