



## ACCESS TO INFORMATION AND PROTECTION OF PRIVACY POLICY

**PURPOSE** To set out the responsibilities of the University community regarding the protection of privacy and the right of access to information in accordance with the Freedom of Information and Protection of Privacy Act (“FIPPA”) and the Personal Health Information Protection Act (“PHIPA”).

**SCOPE** This Policy applies to all members of the University community, including, but not limited to, employees, former employees, students, third-party contractors, volunteers, and individuals who have access to Records under the custody or control of Brock University.

“Custody or control” shall be interpreted and applied in harmony with, to the extent reasonably possible, the principle of academic freedom, as determined by the Information and Privacy Commissioner of Ontario.

This Policy applies to all Records, as defined in Appendix A, regardless of medium, in the custody or control of the University, except for the following Records (subject to certain limitations):

1. Records in the University’s Special Collections and Archives;
2. Labour relations and employment related Records;
3. Research Records; and
4. Teaching materials.

Further information about the Records excluded from this Policy is set out in Appendix B.

This Policy shall be interpreted and applied in compliance with the University’s obligations under any collective agreements. Nothing in this Policy shall be interpreted as limiting or amending the provisions of any collective agreement.

**POLICY  
STATEMENT**

The University is committed to transparency and accountability through freedom of information. The University will make Records available to the public with exceptions being limited and specific as outlined in this Policy.

The University is equally committed to protecting the privacy of individuals and respecting an individual's right to access their own Personal Information and Personal Health Information, as defined in Appendix A.

This Policy aims to ensure that the University fulfills these principles and meets its obligations under FIPPA and PHIPA. All collection, use, disclosure, retention, and disposal of Records containing Personal Information or Personal Health Information, and all requests for access to University Records will be handled in accordance with this Policy.

**PERSONAL INFORMATION**

**Access to Information**

1. The University will provide access to Records in its custody or control in accordance with this Policy unless there are reasonable and legal grounds to deny that access and the decision to deny access is permitted under FIPPA.
2. If the University receives a FIPPA request for record(s) containing the Personal Information of a University employee, the University will notify the affected employee(s) unless:
  - a. disclosure of any of the requested Personal Information to the requester is denied without the need for the University to review that information; or
  - b. direct disclosure of Personal Information is permitted under FIPPA (e.g. law enforcement proceedings).
3. All requests for access to University Records will be processed in accordance with the Access to University Records Procedure.

**Protection of Privacy**

*Collection*

4. The University will only collect Personal Information where the collection is necessary for the proper administration of the University or is expressly authorized by law.

5. The University will only collect Personal Information directly from the individual, except where FIPPA permits otherwise.
6. Where the University collects Personal Information, the University will inform the individual of the legal authority for collecting the information, and the purpose(s) for which the information will be used and a contact person at the University.
7. All collection of Personal Information will be done in accordance with the Collection of Personal Information Procedure.

#### *Use*

8. The University will only use Personal Information:
  - for the purpose for which it was collected or a consistent purpose;
  - for purposes which the individual has consented to; or
  - where the information is in the University's alumni Records, for the University's fundraising activities, if the Personal Information is necessary for those activities.
9. All use of Personal Information will comply with the Use and Disclosure of Personal Information Procedure.

#### *Disclosure*

10. The University will not disclose Personal Information to third parties except in accordance with FIPPA.
11. Any disclosure of Personal Information will comply with the Use and Disclosure of Personal Information Procedure.

#### *Retention and disposal*

12. The University will retain Records containing Personal Information for at least one year after use unless the individual to whom the information relates consents to its earlier disposal.
13. When the University disposes of Personal Information, it will ensure that all reasonable steps are taken to protect the security and confidentiality of the information being destroyed and to ensure that the information is destroyed in such a way that it cannot be reconstructed or retrieved.

14. All disposal or destruction of Personal Information will follow the Use and Disclosure of Personal Information Procedure.

#### *Correction*

15. The University will process requests for correction to an individual's Personal Information where the individual believes there is an error or omission.

#### *Accountability*

16. The University will inform individuals who make a request for access to or correction of Records, Personal Information or Personal Health Information under FIPPA or PHIPA of their right to appeal any decision of the University with respect to their request to the Information and Privacy Commissioner of Ontario.

### **PERSONAL HEALTH INFORMATION**

17. When the University provides health care services to students, faculty or staff, it will identify the appropriate Health Information Custodian.
18. Where the University acts as the Health Information Custodian, all collection, use, disclosure and disposal of Personal Health Information and Health Records will comply with PHIPA and its health information practices will be set out in a written statement, which shall be made publicly available online.

#### **DEFINITIONS**

See Appendix A for the definitions of "Personal Information" and "Records" as defined by FIPPA and the definitions of "Personal Health Information", "Health Information Custodian" and "Health Records" as defined by PHIPA.

#### **COMPLIANCE AND REPORTING**

Brock University will ensure compliance with this Policy through employee training and periodic privacy assessments. Any suspected or confirmed breaches of privacy must be immediately reported in accordance with the Privacy Breach Notification Procedure.

The University will report annually on compliance with this Policy to the Brock University Board of Trustees. In addition, the University will report annually to the Information Privacy Commissioner of Ontario on its processing of access requests and will make such reports available publicly on the website of the Office of the University Secretariat.

Individuals who fail to adhere to this Policy may be subject to discipline.

Policy owner:	President and Vice-Chancellor
Authorized by:	Board of Trustees, Governance/Nominating Committee
Effective date:	March 2018
Next review:	March 2021
Revision history:	December 2010, December 2013, December 2015, March 2018
Related documents:	<ul style="list-style-type: none"> <li>• Access to Student Records and Disclosure of Information Procedure</li> <li>• Access to University Records Procedure</li> <li>• Collection of Personal Information Procedure</li> <li>• Privacy Breach Notification Procedure</li> <li>• Use and Disclosure of Personal Information Procedure</li> <li>• Use of Personal Information for Fundraising Procedure</li> <li>• Student Code of Conduct</li> <li>• Student Health Services Privacy Statement</li> </ul>

## Appendix A - Definitions

As defined by the Freedom of Information and Protection of Privacy Act (FIPPA):

### Record

“record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; (“document”)

### Personal information

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual’s name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual; (“renseignements personnels”)

### Business identity information, etc.

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.

As defined by the Personal Health Information Protection Act (PHIPA):

**Health Record** means a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise, but does not include a computer program or other mechanism that can produce a record that includes Personal Health Information;

**Personal Health Information:** means identifying information about an individual in oral or recorded form, if the information,

- (a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,
- (b) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,
- (c) is a plan of service within the meaning of the Home Care and Community Services Act, 1994 for the individual,
- (d) relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual,
- (e) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
- (f) is the individual's health number, or
- (g) identifies an individual's substitute decision-maker.

**Health Information Custodian** has the meaning set out in PHIPA and includes:

- (a) A health care practitioner or a person who operates a group of health care practitioners.
- (b) A person who operates a centre, program or service for community health or mental health whose primary purpose is the provision of health care.

## Appendix B - Record categories expressly excluded from FIPPA

- 1. Records donated to archives:** Records that were privately donated to the University archives by a person or an organization. This exception does not apply if the donating organization is an institution covered by FIPPA or Municipal FIPPA, or is a health information custodian as defined by the Personal Health Information Protection Act (PHIPA).
- 2. Employment-related Records:** Records collected, prepared, maintained or used by or on behalf of the University in relation to labour relations; employment-related matters; labour negotiations; and meetings, consultations, discussions or communications about the labour relations and employment related matters. Exception does not apply to labour relations agreements and expense records.
- 3. Research records:** Records about or associated with research conducted or proposed by an employee or a person associated with the University. Exception does not apply to the subject or amount of the funding received by an employee or a person associated with the University for research.
- 4. Teaching materials:** Records of teaching materials collected, prepared or maintained by an employee or a person associated with the University for use at the University. Exception does not apply to evaluative or opinion material compiled about teaching materials or research, supplied explicitly or implicitly in confidence, for the sole purpose of assessing the teaching materials or research of an employee or person associated with the University.