

## FOIP Q & A

1. What records of post-secondary institutions are subject to the FOIP Act?
  - All records that are in the custody or under the control of the post-secondary institution are subject to the FOIP Act (section 4(1))
  - A record is under the control of an institution when it has the authority to manage the record, including restricting, regulating and administering its use, disclosure and disposition.
  
2. Who is an "employee" under the FOIP Act?
  - The definition of "employee" in the FOIP Act includes a person who performs a service for the post-secondary institution as an appointee, volunteer or student or under a contract or agency relationship with the institution (section 1(e)). This means that volunteers, students on work experience arrangements, contractors, and appointed board members have the same responsibility to protect privacy as other employees of the institution.
  
3. Are records of contractors subject to the FOIP Act?
  - The definition of "employee" in the FOIP Act includes a person retained under contract to perform services for the public body (section 1(e)).
  - A record may be under the control of an institution where a contract permits the institution to inspect, review or copy records produced, received or acquired by a contractor.

### PERSONAL INFORMATION OF STUDENTS

4. Can student information be disclosed to the local police?
  - Yes, when the police are investigating a particular incident or the possibility that a criminal offense has been committed
  
5. Can a student gain access to a closed letter of reference of which he or she is the subject of the information?
  - Generally yes, since the letter would contain personal opinions about the student.
  - However the institution may refuse to disclose evaluative or opinion information collected for the purpose of conferring a benefit (e.g. a scholarship or other award) to an individual if the information was supplied in confidence.
  
6. Can personal information of students be disclosed to potential employers who are making reference checks?
  - Only if the student consents to the disclosure of opinions about his/her grades, performance and suitability for the job. This consent may take the form of permission to contact the institution or a named individual as a part of the student's application for employment.
  
7. Can a student gain access to an evaluation form completed by an employer who accepted the student on placement?

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- Generally this would be released to the student since the evaluation form would be part of the student's educational history and would be the personal information of the student. However, if the evaluation contained personal information about other people, this might have to be severed first.

8. Can a Registrar disclose a student's address/phone number to a faculty member who is teaching the student or to a Counsellor at the institution?

- Yes, but only on a "need to know" basis.

9. Can an institution disclose to a parent or spouse information about whether their child or spouse is enrolled as a student at the institution?

- Yes. Such disclosure would not be considered an unreasonable invasion of the student's personal privacy unless the student has asked that this information not be disclosed .

10. Can an institution disclose information about the student's attendance, progress, grades, payment of fees, etc. to a parent, spouse, employer, or sponsor?

- No. This is personal information that would not be disclosed without the consent of the student .

11. Can the Registrar confirm that a student is registered in a specific program at the institution in response to a third party inquiry?

- Yes. This disclosure would not be seen as an unreasonable invasion of the student's privacy, provided the student has not asked that this information not be disclosed.

12. Can an employee of the institution ask a student for personal information about the student?

- Yes,if the information relates directly to and is necessary for an operating program or activity of the institution. He or she would also have to inform the student of this purpose and the use to which the information was going to be put.

13. Can the finance department of an institution disclose student information to a collection agency when a student has outstanding accounts with the institution?

- Yes, only the information needed by the collection agency to do its job. This would likely mean name, home address and telephone number and, if the student is working, business address and telephone number, as well as the amount owing.

14. Can an institution share information about students with its student association?

- Yes, but only to the extent that an agreement between the institution and the Student Association requires information sharing

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15. Students often ask for copies of documents they submitted in support of their application. This could include high school, college or university transcripts, medical information or reference letters. Does the institution have to supply such copies?

- Yes.

### STUDENT MARKS AND ACHIEVEMENTS

16. Can a post-secondary institution disclose student marks and attendance to a funding agency?

- Only if the student consents to the disclosure. Generally the lending agency (i.e. Students Finance Board) obtains the student's consent in writing to disclose certain personal information such as marks and attendance with the institution the student will be attending at the time of application for funding by the student.
- Sometimes post-secondary institutions are under contract with federal agencies (i.e. Employment Insurance) to provide training to certain individuals. In such cases the funding agency generally makes it a condition of lending that in order for the individual to be fully funded throughout the term of the program, they must meet certain requirements such as attend class regularly, maintain a passing grade etc., and in these cases the student signs a consent allowing for the institution to disclose the marks and attendance to the agency.

17. Can the Registrar refuse to release an official transcript to a student who owes money to the institution for tuition fees, library books or equipment that has not been returned?

- Yes. The institution can refuse to issue an official transcript or official diploma unless the student settles the outstanding account but should issue a statement of grades to the student, instead.

### FORMER STUDENTS

18. Can an institution disclose information on former students/graduates?

- Yes. It would not be considered an unreasonable invasion of a former student's personal privacy to disclose that he/she had been enrolled in the institution or in a particular program; that he/she had received an honour or award (including a degree, diploma or certificate) granted by the institution; that he/she had attended or participated in a public event or activity related to the institution (e.g. an open house, sporting event or competition, fund-raising activity or cultural event); or that he/she graduated from the institution.
- However, this type of information would not be disclosed if the former student or graduate has asked that the information not be disclosed .

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### PERSONAL INFORMATION OF STAFF

19. Can the names of staff be disclosed to the local police?

- Yes, when the police are investigating a particular incident or the possibility that a criminal offense has been committed

20. Can an institution confirm, in response to a telephone inquiry, whether an individual is employed with the institution, his/her phone number, timetable, address, specific salary, etc.?

- The disclosure is limited to an individual's name and business contact information, including business title, address, telephone number, facsimile number and e-mail address
- A staff member's timetable could be considered to be a part of that person's "employment responsibilities". However, the staff member involved will be contacted regarding the inquiry to ensure that such release would not reasonably be harmful to his or her health or safety.

21. Who can photograph students involved in performing arts or competitive teams, etc?

- Anyone may take photographs of students participating in a public event. These photographs may be disclosed for promotion of the institution or the institution's activities.

22. Can an institution disclose names of graduates to its Alumni Association or to its Fund Development Office?

- Yes. Unless an individual has requested that his/her personal information not be disclosed, an institution may disclose the names of graduates to its Alumni Association for alumni purposes (e.g. providing information about discounted services; benefits; travel, educational or cultural events; seeking feedback on institutional issues).

23. Can a researcher use institution records?

24. • Yes, but only in accordance with the institution's policy on research and data sharing.

25. What is a "personal information bank" (a PIB)?

- Basically it is any collection of personal information where information about an individual can be found using the individual's name or a unique identifier, such as social insurance number, client number or employee number.
- Post-secondary institutions are required to compile and maintain a list of their PIBs to have available at their offices, and provide to the public upon request.