

OCUFA Briefing Note

Issue: Freedom of information coverage for universities
Date: April 2007

For more information about the implications of freedom of information legislation on universities, and university-specific efforts to accommodate the new legislation, please refer to the FIPPA section of OCUFA's website.

- As part of the 2005 Budget bill (Bill 197), the Ontario government extended the Freedom of Information and Protection of Privacy Act (FIPPA) to include universities. Legislative amendments were also made to the Ministry of Training, Colleges and Universities Act and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) to ensure consistency in these pieces of legislation. Changes to FIPPA took effect on June 12, 2006 after a six month transition period to establish procedures and hire staff to conform to the Act.
- Bill 197 enacted a number of exemptions and exclusions to FIPPA designed to protect academic freedom and ensure the privacy and integrity of research. These provisions are the result of concerns expressed by OCUFA and others in the university community.
- By granting specific legislative exemptions under FIPPA, the government empowers the head of an institution to refuse disclosure, in part or in full, regarding the following: examinations and testing materials; evaluations; academic research; teaching materials; university archives; fundraising; and governance.
- The government has noted that universities may incur additional costs in administering FIPPA, dependent in part on the number of access to information requests the university receives. Those universities receiving a higher number of access requests and those universities that have not fully implemented the voluntary Council of Ontario Universities' (COU) Guidelines may incur higher costs. The issue of reimbursement of these costs has not been formally raised by universities to the government, but is considered manageable.
- OCUFA and member associations will need to test the effectiveness of the new FIPPA provisions, possibly with an appeal to the Information and Privacy Commission (IPC). OCUFA's initial request for information under the legislation was met with an overall willingness on the part of the universities to provide whatever data possible.
- OCUFA has met with Ministry staff and the Council of Ontario Universities to consider ways of streamlining information requests under FIPPA, to explore the possibility of providing information to OCUFA on a regular basis that would avoid recourse to FIPPA, and to facilitate the implementation of the legislation.

Background

- The Freedom of Information and Privacy Act came into effect on January 1, 1988, and applied to all Ontario ministries and most agencies including colleges of applied arts and technology. In 1991, public school boards also became subject to Municipal FIPPA legislation. Private career colleges and private degree-granting institutions remain outside the purview of FIPPA.
- The main principles of FIPPA include:
 - The right of the public to information held by public institutions;
 - Exemptions from this right should be specific and limited;

- Independent review of decisions to refuse disclosure of information;
 - The right of Individuals to the protection of personal information.
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- FIPPA establishes privacy protection rules for personal information respecting its collection, use, disclosure, retention and disposal. Individuals may appeal decisions resulting in denial of access to information and may make privacy complaints to the Information and Privacy Commissioner.
 - OCUFA has long advocated for the inclusion of universities under FIPPA. In August 2004, OCUFA released a study called "Restricted Entry: Access to Information at Ontario Universities." The paper was a response to the claim made by university administrators and the Council of Universities that freedom of information policies in place at Ontario universities were an appropriate substitute for coverage under the legislation. The OCUFA study highlights the inadequacies of universities' freedom of information policies. This initiative received extensive media coverage, and played an important part in pushing the government to include universities in the legislation.
 - In 2004 and 2005, OCUFA was consulted about changes to the legislation.
 - Other Canadian provinces, such as British Columbia, Quebec, Nova Scotia, Alberta and Newfoundland, include universities in their freedom of information legislation.