Freedom of Information and Protection of Privacy
INTRODUCTION

• The Freedom of Information and Protection of Privacy Act (FIPPA) has two main purposes in the context of Ontario Universities:
  • Providing a right of public access to university-held records
  • Protecting the privacy of university-held personal information
Key FIPPA Principles

• ACCESS

• Right of access to university records
• For the most part, ‘business as usual’
• Formal access process available
• Exemptions to access are limited and specific
• Independent review: All decisions can be appealed to the Information and Privacy Commissioner of Ontario
What is a Record?

- A record is any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise.

- This INCLUDES drafts, post-it notes, hard drive files, Blackberrryy, e-mail, voice mail, agendas, address books.
Privacy

• Privacy protection respecting university-held personal information
• Statutory rules for collection, use, disclosure, retention and disposal of personal information by institution in its activities
• Right to access and request correction of own personal information
• Right to complain to Information and Privacy Commissioner when privacy rights have been violated
What is Personal Information?

• Recorded information about an identifiable individual including:
  – Ethnic origin, race, religion, age, sex, sexual orientation, etc.
  – Information on education, financial, employment, medical, psychiatric, psychological or criminal history
  – Identifying numbers
  – Home address, telephone number etc.
  – Personal opinions of, or about, an individual
  – Personal correspondence
  – Name where it appears with or reveals other personal information
  – Name, position and records about routine work matters

NOT usually considered personal information
Privacy under FIPPA

Personal Information:

Collection –

• Must have **legal authority** to collect;
• Must **collect directly** from individual
• Must provide **notice of collection**
Privacy under FIPPA

Personal Information:
Use –

• With consent;
• For original or consistent purpose;
• For other limited circumstances;
• Where necessary for fundraising
Privacy under FIPPA

Personal Information:

Disclosure –

• With consent;
• For original/consistent purpose
• In accordance with FOI request
• Where needed in connection with duties
• Compliance with legislation
• Law enforcement/investigation
• Compelling/compassionate circumstances
Privacy under FIPPA

Personal Information:

Retention - Destruction –

• Must maintain for at least a year after last use;
• Only use if accurate, up to date;
• Dispose of effectively/securely;
• Use appropriate security and precautions;
• Must not destroy requested records;
• Willful disclosure without authority an offence
Delegation of FOI Decision Making Power

• Formal written delegation is framework for FOI/Privacy program
• President is designated as the ‘Head’ for FIPPA purposes
• The Head delegates decision making powers to appropriate official(s)
• Delegation also assigns responsibility for privacy protection
Essential Considerations

- Determine identity of FOI/Privacy Officer and Coordinator
- Establish and communicate clear roles and responsibilities for all staff involved in the FOI process
- Ensure privacy requirements are communicated to all staff
- Determine what records can be released without a formal FOI request
- Ensure availability of support from legal counsel
- Appropriate accommodations for FOI/Privacy Office – secure location
- Provide effective blueprint for FOI program
Annual Reporting IPC

• Required to report annually to IPC on FOI compliance

• Detailed statistics relating to the processing of formal FOI requests must be reported to IPC
Annual Reporting
Directory of Records

- **DOR must include:**
  
  Description of organization and responsibilities of institution, including details of the programs and functions of each division or branch of institution
  
  An index of all Personal Information Banks including:
  
  - Name and location
  - Legal authority for its establishment
  - Types of information maintained and how used
  - Who information disclosed to
  - Categories of individuals to whom information relates
  - Record retention policy and practices
  
  A list of the General classes or types of records prepared by or in the custody or control of each institution
  
  The title, business number and address of the head
Additional Requirements

• FIPPA requires establishment of a ‘reading room’

• Following documents must be available for inspection and copying
  – Manuals, directives or guidelines prepared and used to determine the eligibility of an individual for a program
  – Instructions and guidelines re procedures, methods or objectives in administering or enforcing the provisions of any enactment or scheme that affects the public
  – Annual report to the IPC
FOI/Privacy Coordinator

• Coordinator role includes:
  – Process FOI requests within 30 day time limit
  – Deal with IPC on appeals, investigations
  – Provide privacy and access advice as required
FOI/Privacy Coordinator

• Other Possible Duties
  – Support sound privacy practices
  – Help identify records for routine disclosure
  – Assist on initiatives involving personal information
  – Help staff avoid privacy pitfalls
FOI/Privacy Guidelines

Guidelines should describe:

– **Roles & responsibilities for all officials involved in FOI/Privacy**

– **Accountabilities including:**
  Who provides resources; legal support; delegation of authority; approvals and sign-off processes

- **Appropriate resource levels including:**
  financial; HR; FOI staff skills and competencies; training; accommodations
# Sample Personal Information Bank Directory

<table>
<thead>
<tr>
<th>Personal Information Bank Title</th>
<th>Location</th>
<th>Legal Authority to Collect</th>
<th>Information Held</th>
<th>Purpose</th>
<th>Users</th>
<th>Retention And Disposal Period</th>
<th>Individuals in PIB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board Member Profiles</td>
<td>University Secretariat</td>
<td>McMaster University Act (1976)</td>
<td>Name; spouse's name; children's names; home address; home telephone number; home fax number; home email address; business address; business telephone number; business fax number; business email address; staff contact information; résumé; citizenship information; photograph</td>
<td>Government Filing requirements; notification of meetings and events; Determining Membership eligibility</td>
<td>University Secretariat; President and Vice Presidential offices; Office of Public Relations; select information disclosed to COU and Ministry of Consumer &amp; Business Services</td>
<td>Kept Indefinitely</td>
<td>Members of Board of Governors and their family embers</td>
</tr>
<tr>
<td>Senate Member Contact sheets</td>
<td>University Secretariat</td>
<td>McMaster University Act (1976)</td>
<td>Name; business and/or home address; business and/or home telephone number; email address; staff contact information;</td>
<td>Notification of meetings and events</td>
<td>University Secretariat; President and Vice Presidential offices; Office of Public Relations</td>
<td>Kept Indefinitely</td>
<td>Members of Senate</td>
</tr>
</tbody>
</table>