

Policy History
Policy No. IM2
Approving Jurisdiction: President
Administrative Responsibility: Vice President Finance & Administration
Effective Date: March 2004

Freedom of Information and Protection of Privacy Policy

POLICY

The Freedom of Information and Protection of Privacy Act requires that Kwantlen Polytechnic University provide a legal right of access to records in the custody of, or under the control of the University, while at the same time prevent the unauthorized collection, use or disclosure of personal information. Responding to requests for access to records, while at the same time protecting individual privacy, is a basic responsibility of Kwantlen Polytechnic University management and an obligation on the part of all employees.

Every Kwantlen Polytechnic University employee has an obligation to report any information that is important to the safety and security of Kwantlen Polytechnic University and/or its students and employees.

Guidelines and procedures to deal with the creation and storage of records, as well as handling requests for access to records under the Act, will be made available to all employees.

ACCESS TO INFORMATION

The principles underlying the legislation are to make public organizations more accountable to the public and to protect personal privacy by:

- giving the public a right of access to records in the custody of, or under the control of the University;
 - giving individuals a right of access to, and a right to request correction of personal information about themselves;
 - specifying limited exceptions to the right of access where disclosure would result in harm to a third party;
 - preventing the unauthorized collection, use, or disclosure of personal information; and
 - providing for an independent review of decisions made under the Act.
- Information which has been routinely provided in the past, will continue to be available to the public, ***with the exception of personal information.***

The President makes the final decisions on access to information held by Kwantlen Polytechnic University. Decisions on access can be appealed by request to the Information and Privacy Commissioner through a review process.

PRIVATE CONVERSATIONS

Kwantlen Polytechnic University prohibits the taping of any private conversation without the express written consent of all parties to the conversation.

No taping obtained without the express written consent of all parties will be allowed to be put forward in any University proceeding.

DEFINITIONS

Records

A record includes books, documents, maps, letters, papers, photos and any other thing on which information is recorded or stored by graphic, electronic, mechanical or any other means.

Any record created or obtained in the course of an employee's duties as an employee or official of Kwantlen Polytechnic University, belongs to Kwantlen Polytechnic University, and is subject to the Act.

Personal Information

Personal information is any information about an identifiable individual such as name, address, telephone number, race, origin, colour, political or religious beliefs, age, sex, sexual orientation, marital or family status, and any identifying number or symbol assigned to an individual. It includes an individual's personal history regarding finances, education, health, criminal records and employment. The Act also extends to include anyone else's opinion about the individual, as well as, the individual's personal views or opinions, unless they are about someone else. It involves information collected verbally as well as in writing. The definition of personal information is not exhaustive. There may be other types of information that, alone or in combination, would reveal the identity of a particular individual.

PROCEDURES

Handling Requests

A formal request under the Freedom of Information Act must be in writing. The applicant completes designated form.

When a request is received anywhere in the University, it must be received by the Freedom of Information Coordinator, Director of Learner Resources, **on the same day by fax**. By law, Kwantlen Polytechnic University has 30 calendar days to respond to a request.

Questions as to whether a specific request pertains to the Act should be referred to the Freedom of Information (FOI) Coordinator at the Surrey Campus.

Locating the Records

The Coordinator forwards the request to the applicable department. The department(s) has five (5) working days to identify and retrieve the records relevant to the request. This time includes the work day the request arrives, and the final day in which to turn over the information to the coordinator. Where records do not exist, or have been destroyed, the department contact returns

the request to the Coordinator with an explanation and supporting document. Various records are stored electronically (e.g., database files). In compliance with the Act, a new hard copy of the record will have to be created. Sub-section 6.2 provides that:

" ... there is duty to create a record, providing this does not unreasonably interfere with the operations of the public body, and the record can be created using normal computer hardware, software and technical expertise."

Extension of Time

Subject to specific and limited circumstance, the President can extend the time for response. The extension is limited to thirty (30) calendar days.

Third Party Notice

Where a formal request involves a third party's business interests or invades the personal privacy of a third party, the applicant is notified and the thirty (30) day time limit runs from the date of third party notice. At the same time, third parties are notified by the Coordinator and have twenty (20) days to make representations.

The President, through the Freedom of Information Coordinator, is responsible for all decisions related to granting access to information, or for a request being denied.

There is no situation that exists which permits any other employee to grant or deny access to a record that has been requested under the Act.

EXCEPTIONS

There are limited and specific circumstances under which the University may withhold information, these are called exceptions and are either mandatory or discretionary.

1. Mandatory Exceptions:

- Cabinet confidences;
- disclosures that would harm the business interests of a third party; and
- disclosures that would invade a third party's personal privacy.

2. Discretionary Exceptions:

- Policy advice or recommendations;
- legal advice;
- disclosure harmful to law enforcement;
- disclosure harmful to intergovernmental relations or negotiations;
- disclosure harmful to the financial or economic interests of a public body;
- disclosure harmful to the conservation of heritage sites, etc.;
- disclosure harmful to individual or public safety; and
- information that will be published or released within 60 days.

PROTECTION OF PRIVACY

The Act provides that:

- individuals have the right to access their own personal information and to request correction of errors or omissions in it;
- public bodies collect personal information only for purposes authorized under an Act, for law enforcement or for operating programs or activities;

The Act provides that:

- public bodies collect personal information directly from the individual concerned unless the individual authorizes collection from another person, the Act authorizes indirect collection or specific legislation authorizes collection from other sources;
- public bodies notify individuals about the authority for and purpose of collecting their personal information unless notice is not required in limited and specific circumstances under the Act;
- public bodies use personal information only for the purpose for which it was collected for a consistent purpose, for another purpose to which the individual has given express consent or for a specific purpose set out in the Act;
- public bodies make reasonable efforts to ensure that the personal information they collect for decision-making purposes is accurate and complete;
- public bodies retain personal information used for decision-making purposes for a reasonable period of time so that individuals may exercise their rights of access; and
- public bodies make reasonable security arrangements to protect personal information in their custody or under their control.

Reviews

The Act provides for the appointment of an Information and Privacy Commissioner, whose duties include investigating complaints, reviewing decision on access and offering comment on privacy issues.

REMEMBER

- Requests for information made under the Freedom of Information and Protection of Privacy Act must be forwarded to the office of the FOI Coordinator on the same day.
- The President is responsible for all decisions relating to the granting or denying of requests for information made under the Act.
- There is a maximum fine of \$5,000.00 for willful disclosure of information in contravention of the Act.
- Personal information must be collected directly from the individual it relates to, and access to this information is limited to those persons who require the information to carry out their duties.
- Personal information must be kept for a minimum of one (1) year from the day it is collected or amended.
- Personal information may be collected providing an FOI notice of use is included on the collection form that the individual is asked to complete.
- Personal information in response to a reference check requires the written consent of the individual, and that individual may request a copy of the reference given.
- A note recorded during an interview is personal information and must be released to the person interviewed if requested.

- ***Please Fax requests to Cathy MacDonald (2106) on the same day they are received.***

RELATED POLICIES:

AR3 Confidentiality of Student Records/Files
ST15 Student Access to Interpreting Services