

Recruitment and Selection

1. Introduction

The *Freedom of Information and Protection of Privacy (FOIP) Act* (the Act) sets standards for the collection, use and disclosure of records that affects how you create, organize, and manage the records that are generated during the recruitment and selection process.

This following information will help staff make appropriate decisions regarding:

- the collection or creation of personal information required in the recruitment and selection process,
- the use and disclosure of information acquired or created during the process, and
- the retention and disposition of personal information acquired or created during the process.

2. General Considerations

In simple terms, the FOIP Act provides individuals with a right of access to information about themselves and restricts disclosure of personal information to third parties.

An officer or employee of the University, however, may access the personal information of a third party if access to that information is necessary for the performance of his or her duties. (s.40(1)(h)).

The FOIP Act has a direct impact on the collection and use of personal information and on record-keeping in general. Specifically:

- The personal information that you collect must relate directly to and be necessary for an operating program or activity of the University (s.33(c))
- When you are collecting personal information directly from an individual, you must inform the individual of the purpose for the collection, the legal authority for the collection, and the title, business address and telephone number of someone who can answer questions about the collection (s.34(2))
- Any personal information that is used to make a decision about an individual must be retained for at least one year after use so that the individual has a reasonable opportunity to obtain access to it (s.35(b))
- Personal information stored in paper based or electronic systems must be protected against such risks as unauthorized access, collection, use, disclosure and destruction of records (s.38)
- Records created during the recruitment and selection process must be stored or destroyed in accordance with University policy and procedure

Remember that under the FOIP Act, there is no such thing as an 'unofficial' file. All relevant records in the custody or under the control of an officer or employee of the University must be considered for access in the event that an applicant files a request for access under the Act. A good records management system will avoid the unnecessary proliferation of files and copies.

3. Requests for Access to Information

Anyone may file a request for access to records created during the recruitment and selection process but requests are typically filed by an individual involved in the process, e.g. an unsuccessful candidate.

Some information can be routinely disclosed by staff in the faculty or department; in other cases, an applicant may need to be referred to the formal FOIP request process.

4. Requests by Individuals for Information about Themselves

Individuals have a legal right of access to any personal information about themselves that is held by the University (s.2(c)). Whenever possible, access should be provided without requiring a FOIP request.

The right of access, however, is limited by specific exceptions as set out in the Part 1, Division 2 of the FOIP Act. If, after reading this protocol, you are still not sure if information requested should be withheld, contact the FOIP Coordinator.

When you do not personally know the individual who has requested information, you should take steps to verify his or her identity before disclosing the records. If an individual is viewing his or her file, ensure someone is present to protect the security of the records and, if requested, to explain or clarify the information.

5. Requests for Correction to Personal Information

Individuals have a legal right to request a correction of personal information held by the University about them if it can be proved that the information is factually incorrect (s.2(d)). This section of the Act does not impose any obligation on the University to consider a request for the correction of an opinion, including a professional or expert opinion (s.36(2)).

6. Requests for Personal Information by a Third Party

A third party is any person or organization other than the University and the individual the personal information is about. Personal information can only be disclosed to a third party if:

- The disclosure would not be considered an unreasonable invasion of personal privacy as outlined in section 17(4) of the Act and where routine disclosure has been recommended
- The disclosure is authorized under section 40 of the Act

For more details, refer to the protocol entitled, 'Disclosing Personal Information of Employees to Third Parties'. If after reading the policy guideline you are still not sure if information requested should be disclosed, contact the FOIP Coordinator.

7. Managing Specific Records

Although the FOIP Act does not require a public body to create records, it does establish a culture of accountability for decisions made by the public body. It is, therefore, important to create and retain records that properly document the recruitment and selection process at all stages.

Records collected or created during the recruitment and selection process generally fall into the following categories:

- Information about the job and the process
- Application process
- Screening and interview process
- Reference and other checks
- Offers of employment or rejection

7.1. Information about the Job and the Process

Profile of the job and description of the ideal candidate

This is considered public information, may be disclosed to anyone and is frequently published in a public place.

Factual information about staffing options (e.g. permanent versus temporary)

The information can be disclosed once a decision has been made.

Advertising material, expenditures on advertising and media strategy

Any material that is in the public domain (e.g. an advertisement that has been published) can be routinely disclosed. Strategies and expenditures can be disclosed once the competition has been closed.

Records dealing with staffing strategies

These could contain information about appointing candidates without a competition, whether to limit the competition and so on. Until a decision has been made and the chosen option exercised, these records may be exempted from disclosure under s.24(1)(d). Once the decision has been made, they may still be severed if they meet requirements under s.24. The applicant should be asked to file a formal access request.

Information in records dealing with external human resource consultants

These could contain confidential business or commercial information which, if disclosed, would harm the business interests of a third party. If so, the University must, under s.16, refuse to disclose the information. The applicant should be asked to file a formal access request.

7.2. Application Process**Job application, expense claims and other correspondence regarding the application**

Applying for a job is a private matter. Job candidates can be vulnerable to harm especially if the results are disappointing. You need to be careful to withhold information from third parties if that information can confirm or deny the status of an individual with regard to a competition. Routine disclosure is not recommended for these records and information sharing within the department should be on a need-to-know basis.

Resumes

Resumes or curriculum vita (CV) should only be disclosed to those directly involved in the decision making process (e.g. members of the selection committee and University officials who have the authority to approve an appointment) unless the candidate has consented in writing to a broader distribution. On this campus, the appointment of an academic staff member may be a more public process. If the candidate has been notified that the selection process will be made public at some stage of the competition and he or she has expressed a willingness to proceed, no further consent to disclose information is necessary. Again, information should only be disclosed on a need-to-know basis and candidates should be asked to provide a CV that is appropriate for public distribution.

Unsolicited resumes are considered transitory records and may be confidentially shredded at the discretion of the unit. If the resume was considered in the process of a personnel search, however, it must be retained for one year in accordance with s.35(b).

Summaries of resumes

These are sometimes made for selection committee members. The candidate has the right to examine his or her own summary for accuracy and may request corrections (s.36).

Records of telephone conversations, notes

These may be considered transitory records unless they form part of the decision making process. If they are transitory, they should be shredded once they are no longer administratively useful. If they contain information considered during the decision making process, they should be retained in the appropriate file.

Records which confirm qualifications

These may be collected directly from the candidate or from other sources as per s.34(1)(n). They should only be shared with those who have an absolute need to see them.

7.3. Screening and Interview Process

Names of selection committee members

Names can be disclosed upon request or actively disseminated.

Screening criteria, factors used in interview assessments, interview plans and questions

These may be disclosed upon request after the interviews have taken place.

Examination or test questions

You can refuse to disclose questions that are to be used or reused on an examination or test in the future.

Ratings and rankings

These can be disclosed to any applicant if all personal identifiers have been removed. They can be disclosed to a candidate as long as all personal identifiers of other candidates have been severed.

Test results

These may be accessible provided certain information is severed. The applicant should be asked to file a formal access request.

Interview schedules

These can be routinely disclosed if all personal information has been severed. They can also be disclosed to the candidate if all personal information except his or her own is severed.

Selection committee discussions and advice

Discussions of the selection committee may be recorded verbatim. If the recording is used for such purposes as drafting minutes or informing a missing committee member, it can be considered a transitory record and destroyed once the minutes have been approved or the committee member updated. Minutes, if taken, must be retained for 1 year after a recommendation is made for a support staff position and 2 years after a recommendation is made for an academic position.

Decisions of the selection committee should be recorded and must be kept for 1 year after a recommendation is made for a support staff position and 2 years after a recommendation is made for an academic position.

The University has the discretionary right to refuse access to records of selection committee discussions and advice if certain conditions are met. Any requests for access to this information should be referred to the FOIP Coordinator.

Notes taken by selection committee members

If the selection committee meetings are minuted, notes taken by committee members are considered transitory and should be shredded once minutes are approved. If no summary is made and decisions are made based on notes, they must be retained for 1 year after a recommendation is made for a support staff position and 2 years after a recommendation is made for an academic position. Notes are accessible while they exist.

The University, however, does have the discretionary right to refuse access if certain conditions are met. Any requests for access to this information should be referred to the FOIP Coordinator.

7.4. Reference and other checks

In collecting reference information, you have two responsibilities – to ensure that candidates are treated ethically while successfully gaining additional information about prospective employees.

Section 34(1)(n) allows the University to collect personal information indirectly for the purpose of managing or administering personnel matters. This gives you the authority to collect, without specific consent, reference information

from any party. Remember, however, that at this stage you are seriously considering this person as an employee and might want to consider how such an action would affect your relationship. It is recommended that you acquire written consent from the applicant before collecting any reference information.

Note also that although s.40(1)(x) does allow another department within the University to provide you with reference information about a candidate already employed by that other department, it is strongly recommended that you obtain the written consent of the candidate before accessing sensitive information such as information relating to performance, attendance, and fitness or disabilities.

List of references consulted

You can provide candidates with a list of referees consulted with respect to their own application unless specific policy dictates otherwise.

Questions asked of referees

When a common set of questions is used in gathering information, these can be provided to any requestor.

Reference letter or notes taken from a verbal consultation

It is considered an unreasonable invasion of privacy to disclose any personal recommendations or character references to an individual other than the individual the information is about. The University, therefore, must refuse to disclose evaluative material to third parties unconnected to the recruitment process.

The University also has the discretionary right to refuse access to references to the individual the information is about if the reference was supplied with the explicit or implicit expectation of confidence.

Any requests for access to this information should be referred to the FOIP Coordinator.

7.5. Offers of Employment or Rejection

Offer letter

The successful candidate will receive a letter outlining terms and conditions of an offer of employment. This offer information will be available to staff who have a need to know; specific information such as salary range, job title, job classification, and hours of work is considered public information and can be released upon request.

Announcements about new employees

Announcements about new employees are public information. They should, however, be made with the consent of the individual. The easiest way to do this is to obtain consent or approval on the text of the announcement before release.

Fee for service contracts

Requests for access to these need to be carefully considered to ensure that the information about the individual is actually personal information. Personal information about sole proprietors is considered to be personal information if that person actually provides the service. Any requests for access to this information should be referred to the FOIP Coordinator.

If you have questions, please contact the FOIP Coordinator at foip@ucalgary.ca.