

BACKGROUND

PRIVACY OBLIGATIONS OF PUBLIC BODIES IN BC: BOARD INVESTIGATION PROCESS



What is privacy?

Every jurisdiction in Canada has legislation that establishes rules and standards concerning the collection, use, disclosure, and protection of “personal information”. These laws are based on the central principle that individuals have a right to privacy in relation to their own personal information.

What is FIPPA?

The *Freedom of Information and Protection of Privacy Act* or “FIPPA” is legislation that establishes the rules and standards that apply to provincial government bodies, including Thompson Rivers University (TRU), when they collect, use, disclose and maintain personal information. It ensures that government is held to appropriately high standards to safeguard individual privacy.

TRU has legal requirements to use and disclose the personal information of its staff, students, and members of the public only when TRU authorizes it to do so.

What is “personal information”?

Privacy laws, including FIPPA, apply to “personal information”. Personal information is broadly defined in the legislation as “recorded information about an identifiable individual”. Courts in Canada (up to and including the Supreme Court of Canada) have found that “personal information” can include virtually any information about a person, and it is not limited to information that identifies a person by name.

What is TRU’s obligation to protect privacy?

Under FIPPA, TRU is obligated to protect individual privacy by ensuring that it uses and discloses personal information only when permitted by FIPPA. It is also subject to a legal obligation to protect records containing personal information against unauthorized use and disclosure.

How does FIPPA apply to workplace investigations?

Under FIPPA, information about a person’s employment history is considered to be sensitive personal information. This includes information about whether a person participated in a workplace investigation, what they told investigators, and whether they were accused or found to have engaged in misconduct. FIPPA does not authorize public bodies, like TRU, to provide the public with access to sensitive personal information that they collect in the course of a workplace investigation unless the affected individual provides their consent.

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What rights does the public have to know about alleged misconduct by government employees?

Members of the public have the right to make requests for access to records within the custody or control of public bodies, like TRU, that are subject to FIPPA. However, that right of access is not unlimited. If TRU receives an access request for access to information about an employee's alleged misconduct or their participation in a workplace investigation, TRU is required by FIPPA to withhold that information if its disclosure would give rise to an unreasonable invasion of the employee's personal privacy. This is the reason that individuals who make requests for access to workplace investigation reports may receive documents with some information redacted.

Additional resources on privacy legislation and access to information:

- The Office of the Information and Privacy Commissioner [Guide to Access and Privacy Protection under FIPPA](#)
- [Freedom of Information and Protection of Privacy Act](#)