



Privacy Fact Sheet

Access and Privacy Guidelines for Selection Committees

Introduction

1. As a member of a selection committee, you will be provided with a variety of records, including application forms, transcripts, and reference letters. In the course of participating in the selection process, you may annotate these records or create new records regarding various candidates, including ranking forms, comment sheets, and score cards.
2. UBC is subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA). Under section 31 of the FIPPA, if UBC uses an individual's personal information to make a decision that directly affects the individual, UBC must retain that personal information for at least one year from the date of the decision so that the affected individual has a reasonable opportunity to obtain access to that personal information. **Any individual may request access to records in UBC's custody or control** and, where those records contain information about that individual, UBC has a general obligation (with limited exceptions) to disclose those records to the individual.
3. With the foregoing retention and disclosure obligations in mind, the Office of the University Counsel has developed this Privacy Fact Sheet in order to provide the members of UBC's selection committees with guidance regarding the creation, use, and retention of records.
4. This Privacy Fact Sheet is not a substitute for legal advice. If you have questions about a specific situation, contact the Legal Counsel, Information and Privacy in the Office of the University Counsel.

Creation of Records

5. Selection committees serve a crucial role at UBC. In order to achieve UBC's goals of attracting the very best and brightest candidates, it is essential that the members of selection committees evaluate candidates in an unbiased and principled manner and relying upon fair and defensible selection criteria. Individual members of selection committees should keep these goals and expectations in mind at all times, including when creating records that will be used by the selection committee in its decision-making process.

Retention of Application Materials (Including Reference Letters)

6. Where a candidate or a referee submits materials to UBC in support of an application and where those materials are used by the selection committee to make a decision regarding the application, the secretary to the selection committee must retain a copy of the application materials for at least one year after the decision has been made. Only one copy needs to be retained. **Unless there is an operational need to retain the records for longer than one year, the records must be disposed of in a secure manner as soon as possible after the one-year period has expired.** Retaining personal information longer than necessary greatly increases the risk of an inadvertent disclosure of personal information contrary to the FIPPA. Failure to properly dispose of personal information also puts personal privacy at risk contrary to the FIPPA.

(Shredding is an accepted form of secure disposition. By contrast, putting intact files at the curb for recycling is not acceptable.) Individual members of the selection committee should return their copies of the application materials to the secretary immediately after the decision has been made for secure disposition.

Retention of Personal Notes and Annotations

7. The individual members of selection committees are usually expected to review application materials in advance of the meeting at which the selection committee will make its assessment. In the course of preparing for such meetings, individual members of the selection committees may make notes or annotate the application materials for their own personal reference in order to remind themselves of points that they wish to raise for discussion at the meeting. **Provided that those notes are used only for personal reference and are not distributed to any other members of the selection committee, those records are not considered to be used by UBC to make a decision** (since the decision is made by the selection committee collectively and not by individual members). Therefore, they are not required to be retained for a minimum of one year under the FIPPA. In order to protect the personal privacy of candidates, those notes and annotations should be securely disposed of as soon as possible.

Retention of Other Records Generated by Selection Committee Members

8. Some materials generated by the members of selection committees are not used purely for personal reference. For example, individual committee members may be asked to complete a score sheet or ranking form which will be collected by the committee secretary and tabulated to generate an overall ranking or score that the selection committee will then base its decision on.
9. Similarly, committee members may be asked to submit comments on candidates in writing to the committee secretary, who will then create a compilation of comments for each candidate that can be considered by the selection committee. The committee secretary may take minutes of the discussions at committee meetings. **Such records are considered to have been used by the selection committee to make its decision.** Any records that are relied upon by the selection committee to make its decision must be retained by the committee secretary for at least one year and, after that year has expired, must be disposed of in a secure manner.

Confidentiality and Security of Records

10. It is good practice to ask participants in selection processes to sign a Security and Confidentiality Agreement. A model agreement is posted on the University Counsel website at:
<https://universitycounsel.ubc.ca/files/2019/04/NDA-Selection-Process.pdf>.

Disclosure of Records under FIPPA

11. Under the FIPPA, any person may request that UBC disclose records, regardless of whether those records were relied upon to make a decision. UBC's obligation to respond to such a request is limited to those records that are in its custody or under its control at the time the request is made. **If records have been disposed of (as set out above) prior to a request having been made, then UBC no longer has any obligation (or ability) to disclose those records.**

12. If UBC still has custody or control of records that are responsive to the request, then those records will be reviewed by UBC's Legal Counsel, Information and Privacy, who will assess the extent to which those records should be disclosed. In making this assessment, the Legal Counsel, Information and Privacy must adhere to the requirements of the FIPPA. In most cases where an applicant is requesting records containing information about himself/herself, the FIPPA requires UBC to disclose those records to the applicant. However, there are limited exceptions in the FIPPA that may permit or even require UBC to redact information in those records such as, for example,
- a. information that reveals advice or recommendations provided by committee members, including any records that are integral to the deliberative process;
 - b. information that reveals the content of a personal recommendation, evaluation or character reference where the applicant knows or could ascertain the identity of the individual providing this recommendation, evaluation or reference; and
 - c. information that cannot be disclosed without unreasonably invading the personal privacy of other individuals.

Here are examples of records that UBC would not be required to disclose in response to a request¹:

- emails between the committee members and other University employees, which concern procedural matters, such as: the assembly of appropriate materials for the review; how the committee will proceed; how committee members are to conduct themselves with respect to the confidentiality of the promotion process; and on appropriate ways of assessing the candidates
- emails that concern the identification of appropriate area specialists and external referees
- reference letters (unless the referee has consented to the disclosure of these letters)
- emails on the drafting of communications, such as the committee's reporting letter to the decision-maker, which consist of advice or recommendations on the content of the reporting letter
- emails about issues and concerns the applicant raised about the selection process (e.g., whether or not a particular area specialist should be on the committee) and which consist of advice or recommendations on formulating responses to the applicant on these matters
- the committee members' handwritten notes, which reflect their analysis and evaluation of, and deliberations on, any reference letters and application materials
- annotated copies of materials submitted by the applicant as part of the application, which reflect the committee members' analysis and evaluation of these materials

The identities of faculty or staff members who are serving on selection committees are not considered confidential.

¹ Order F14-52, 2014 BCIPC 56, para. 37