Memorial University
Submission to
Access to Information and Protection of Privacy Review Committee
August 13, 2014

As Newfoundland and Labrador's only university, Memorial has a special obligation to the people of this province. Established as a memorial to the Newfoundlanders who lost their lives in active service during the First and Second World Wars, Memorial University draws inspiration from these shattering sacrifices of the past as we help to build a better future for our province, our country and our world.

We are a multi-campus, multi-disciplinary, public, teaching/research university committed to excellence in everything we do. We strive to have national and global impact, while fulfilling our social mandate to provide access to university education for the people of the province and to contribute to the social, cultural, scientific and economic development of Newfoundland and Labrador and beyond.

Memorial has more than 18,500 students spread across four campuses and nearly 85,000 alumni active throughout the world. From local endeavours to research projects of international scope, Memorial's impact is felt far and wide.

from http://www.mun.ca/memorial/about/

Summary of Recommendations

1. That the definition of personal information in British Columbia's *Freedom of Information and Protection of Privacy Act* be adapted to replace the current definition in the *ATIPPA*, as follows: Personal information means recorded information about an identifiable individual other than business contact information.
2. That s.5 of the *ATIPPA* should remain unchanged.
3. That when conducting a review under s.43, the information and privacy commissioner be empowered to require a sworn affidavit or declaration from a public body when access is denied because records are not in the custody and control of the public body or are outside the scope of the *ATIPPA* pursuant to s.5.
4. That the time limits for responding to ATIPP requests not be changed.
5. That the *ATIPPA* Review Committee give serious consideration to the treatment of opinions in this legislation by amending the definition of personal information, as outlined in Recommendation 1 above.
6. That the current wording of s.20 remain unchanged.
7. Two minor changes to s.22.1 (as described on p. 15).
8. That the current wording of s.22.2 remain unchanged.
9. That s.27 of the *ATIPPA* remain unchanged and that the ATIPPA Review Committee consider the challenge for public bodies presented by the burden of proof in s.64.
10. That the *ATIPPA* be amended by adding a provision similar to s.23 of British Columbia's *Freedom of Information and Protection of Privacy Act* for notice to third parties whose privacy interests may be affected by a disclosure of records.
11. That paragraph 38.1(2)(c) be amended to remove the requirement for publication in a newspaper of general circulation.

I. INTRODUCTION

The public rightly demands transparency and accountability of Memorial University. Memorial recognizes its role as a public institution and its important obligation to govern itself in the public trust. The guiding principle of the university's information request policy (established in 2010) is:

> Memorial University of Newfoundland, as a public institution, is committed to openness, accountability and transparency in all of its activities. Questions arising from and information sought about Memorial University's activities will be met with forthright and timely responses. Most information about the university's operations is considered public information and is made easily accessible on the Internet. The university is guided by and bound by federal and provincial laws regulating access to information and protection of privacy.

Following proclamation of the *Access to Information and Protection of Privacy Act (ATIPPA)* in 2005, the university established an Information Access and Privacy Protection (IAPP) office, led by the university privacy officer. Its mandate is to develop and implement policy, procedures and best practices in information access and privacy protection, to conduct privacy impact assessments of projects and programs to identify privacy risks and recommend measures to mitigate those risks, to provide strategic and day-to-day advice to the university on all matters pertaining to access and privacy, to manage ATIPP requests, and to deliver access and privacy training to the university community.

The university's privacy policy was established in 2008 and its guiding principle states:

> Memorial University is entrusted with the personal information of its students, employees, alumni, donors, research participants, retirees and others and is committed to excellence in its management of this information.

Any consideration of the *ATIPPA's* application to public bodies must first note that the *Act* applies only to records that are in a public body's custody and control. On receiving an ATIPP request, the first step is assessing whether or not the records requested are in the public body's custody or control. Numerous reports with interpretations of this question by information and privacy commissioners in other Canadian jurisdictions are available to assist in assessing whether records sought in an ATIPP request are in a public body's custody or control. See, for example, Order PO-3009-F by the Information and privacy commissioner of Ontario (http://www.ipc.on.ca/images/Findings/PO-3009-F.pdf).

II. APPLICATION TO HIGHER EDUCATION

We note the university is not an agency of the government and its autonomy is recognized in the *Memorial University Act,* which states that "(n)otwithstanding paragraph 2(1)(a) of the *Auditor General*

Act, the university is not an agency of the Crown for the purpose of that *Act* or any other purpose" (*Memorial University Act,* RSNL 1990 CHAPTER M-7, sub-section 38.1 (2)).

In accordance with the *Memorial University Act*, university governance is divided between the Board of Regents and the Senate. The Board of Regents has responsibility for management, administration and control of the property, revenue, business and affairs of the university and the Senate has responsibility for academic matters. This division of responsibilities is very common in universities. In respect of the administrative activities at Memorial University, Memorial is much the same as any public body administering the *ATIPPA*. In respect of academic matters, however, the *ATIPPA's* application to a higher education body presents challenges.

The legislation does not effectively account for the unique bi-cameral governance structure that exists at Memorial University, nor the principles of autonomy, academic freedom and collegial decision-making that are embedded in the institution. The *ATIPPA* is designed for an environment where employees' work is deemed to be directed by their supervisors. Many courts and tribunals have considered the distinction between personal information and "work product." Although not a defined term in the *ATIPPA,* work product is covered in two provisions in the *ATIPPA* that illustrate its intended application to environments that presume its employees are acting as its agents:

- 30(2)(f)
  This provision states that disclosure of information about an employee's position, functions and salary range is not an unreasonable invasion of the employee's privacy. The "position" and "functions" aspects of this provision are equated to "work product." It concerns the extent to which records produced by or about an employee relate to the employee's "functions" and are not, therefore, the employee's personal information.

- 30(2)(h)
  This provision states that disclosure of an opinion of an employee or other third party given in the course of performing services for a public body is not an unreasonable invasion of the employee's privacy. This provision assumes that opinions produced by employees of a public body in the course of performing services for their employer are not their personal information and are, instead, part of their "work product."

The *ATIPPA* effectively assigns accountability for actions of its employees to the public body. At Memorial University, however, the governance structure and collegial decision-making in academic matters (including academic policy, academic program reviews, peer review, course offerings, and pedagogy) mean that many decisions pertaining to academic matters are not directed by the university's president (the public body head under the *ATIPPA*) nor by administrators. For example, academic program regulations are governed by the Senate. In addition to regulating the conduct of its meetings and determining degrees awarded and to whom, the Senate's powers under the *Memorial University Act* include:

- determine the conditions of matriculation and entrance, the standing to be allowed students entering the university and all related matters;
- receive, consider and determine proposals or recommendations of a faculty council or other body as to courses of study and all related matters;
- regulate instruction and to determine the methods and limits of instruction;
- determine the conditions on which candidates shall be received for examination, to appoint examiners and to determine the conduct of all examinations;
- prepare the calendar of the university for publication;
- appoint committees that it considers necessary and to confer upon the committees power and authority act for the senate in and in relation to matters which the senate considers expedient and to appoint other committees that the senate considers expedient to act in an advisory capacity;
- exercise disciplinary jurisdiction with respect to students in attendance at the university, by way of appeal from a decision of the faculty council.

University governance can be described as collaborative governance in which power is shared and balanced between governing bodies. It is a unique form of accountability derived from the tenets of autonomy, independence, academic freedom and governing in the public trust. Collegial decision-making is the basis of decision-making about academic matters and cannot function without faculty participation. In accordance with long-standing practice, many of the records generated by faculty in the course of conducting research, developing teaching materials and creating knowledge through publication and presentation are not in the custody and control of the university. In a 2011 report from the information and privacy commissioner of Ontario concerning a university's custody and control of records held by members of the university's faculty association (APUO), the commissioner noted:

The significant conclusions I have reached in this regard are:

1. *records or portions of records in the possession of an APUO member that relate to personal matters or activities that are wholly unrelated to the university's mandate, are not in the university's custody or control;*
2. *records relating to teaching or research are likely to be impacted by academic freedom, and would only be in the university's custody and/or control if they would be accessible to it by custom or practice, taking academic freedom into account;*
3. *administrative records are* prima facie *in the university's custody and control, but would not be if they are unavailable to the university by custom or practice, taking academic freedom into account.*

Final Order PO-3009-F of the Information and Privacy Commissioner, Ontario
Available at: http://www.ipc.on.ca/images/Findings/PO-3009-F.pdf

To summarize, administration of the *ATIPPA* at Memorial University contends with complexities that derive from its unique governance structure and, as well, the important principles of autonomy and academic freedom that, as concluded in the report by the Ontario commissioner in respect of an Ontario university, impact on Memorial's custody and control of records held by its academic staff members.

III. *ATIPPA:* PART I AND PART II

Definitions – section 2

The definition of personal information in the *ATIPPA* —recorded information about an identifiable individual —lists many examples of what is included in the definition. In assessing whether information in a record merits privacy protection (whether for the purposes of responding to an ATIPP request or privacy protections in Part IV of the *Act*), the current definition is unnecessarily cumbersome. A better definition of personal information is found in British Columbia's *Freedom of Information and Protection of Privacy Act* [RSBC 1996] CHAPTER 165 (BC'S FIPPA). Schedule 1 of BC'S FIPPA defines personal information as "recorded information about an identifiable individual other than contact information." Memorial University submits that the simplified definition in BC'S FIPPA makes clear that any information about an identifiable person is personal information (subject, of course, to limitations that are set out in other sections of the statute). The BC definition aligns with Canada's *Personal Information and Protection of Privacy Act (PIPEDA)* by not including business contact information. Additionally, the BC definition permits a nuanced interpretation of a person's opinion, which Memorial University submits is needed (see a separate section below entitled, "Opinions").

Memorial University submits that the definition of personal information in BC'S FIPPA ought to be adopted to replace the current definition in the *ATIPPA*, and expressly note "business contact information" to distinguish business contact information from home contact information.

Recommendation #1

Memorial University recommends that the definition of personal information in BC'S FIPPA be adapted to replace the current definition in the *ATIPPA*, as follows:

Personal information means recorded information about an identifiable individual other than business contact information.

Application – section 5

The *ATIPPA* is designed to apply to government's executive branch, and does not apply to its judicial and legislative branches. The *ATIPPA'*s exclusions are similar to those in freedom of information laws in other Canadian jurisdictions. S. 5 of the *ATIPPA* entirely removes certain types of records from the *ATIPPA's* application and from the jurisdiction of the office of the information and privacy commissioner (OIPC). This interpretation has been confirmed by the Supreme Court Trial Division in respect of three cases before it in which the Court considered the commissioner's jurisdiction to compel production of records covered by s. 5.[1]

[1] See Newfoundland and Labrador (Attorney General) v. Newfoundland and Labrador (Information and Privacy Commissioner), 2010 NLTD 19; Newfoundland and Labrador (Attorney General) v. Newfoundland and Labrador (Information and Privacy Commissioner), 2010 NLTD 31; Ring v. Memorial University of Newfoundland, 2014 NLTD(G) 32.

The types of records excluded from the *ATIPPA* are concerned with important judicial, political and academic principles and conventions and principles of autonomy, such as court files and the files of judges and persons acting in a judicial or quasi-judicial capacity; constituency records of members of the House of Assembly and of ministers of the Crown; records of incomplete prosecutions and investigations as well as records which might reveal the identity of informants. S. 5 also excludes records of a question that will be used on an examination or test, and records containing teaching or research information of an employee of a post-secondary institution. This exclusion recognizes that academic principles and autonomy of faculty within a university are not part of the public sphere that is covered by the *ATIPPA.*

Section 5 of the *ATIPPA* serves as recognition that the legislation is intended to apply to core government and its agencies and their role in setting priorities and public policy, overseeing the bureaucracy and in their responsibility for decisions taken. *ATIPPA's* exclusion of the judicial and political branches and certain academic endeavours that respect faculty autonomy are appropriate. Below we discuss research which, together with teaching materials, ought to remain as an excluded category.

Research

Memorial University wishes to address, in particular, the exclusion of research. Consistent with access to information legislation in other Canadian provinces, research information is excluded from the *ATIPPA*. This exclusion reflects the autonomy of researchers in advancing human knowledge and the unique niche that research occupies in institutions of higher learning. The exclusion respects long-standing principles of academic freedom, intellectual property rights and competitiveness. This exclusion has been upheld by tribunals in other jurisdictions.[2] It is not the university that conducts research; rather, researchers affiliated with the university conduct research. The university's obligations are to support research by ensuring it is undertaken according to the standards set out in the federal Tri-Agency Agreement on the Administration of Agency Grants and Awards by Research Institutions[3] (the Agreement) and the Tri-Agency Framework: Responsible Conduct of Research[4] (the Framework), that research funds are utilized appropriately and subject to established accounting practices, that researchers are fully aware of their obligations and responsibilities in research, and that they have the appropriate facilities to conduct their research and to store their results safely and securely. As an illustration of one of the ways research differs from administrative functions: should a researcher employed by the university leave the university and take up a post elsewhere, the project would not usually be left behind to be taken up by a successor or otherwise re-assigned by the institution as an operating program or activity. Normally, the researcher would take her research with her.

It is vital that the scrutiny of university research, and the protection of human participants in research, remain the prerogative of those authorities that are best informed and equipped to undertake such

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[2] See, for example, Order F10-42 of the British Columbia Information and Privacy Commissioner, available at: http://www.oipc.bc.ca/orders/2010/OrderF10-42.pdf.

[3] Tri-agency refers to Canada's research granting agencies - Canadian Institutes of Health Research (CIHR), Natural Sciences and Engineering Research Council of Canada (NSERC), and Social Sciences and Humanities Research Council of Canada (SSHRC). Further information is available at: http://www.cihr-irsc.gc.ca/e/44574.html. The Tri-Agency Agreement on the Administration of Agency Grants and Awards by Research Institutions is available here: http://science.gc.ca/default.asp?lang=En&n=56B87BE5-1.

[4] Available at: http://www.rcr.ethics.gc.ca/eng/policy-politique/framework-cadre/.

activities. For example, where applicable, research involving humans at Memorial University is subject to the oversight of research ethics boards (REB's), which ensure that the rights, welfare and privacy of research participants are protected in research involving humans. REB's are uniquely qualified to review research projects that include human participants, many of which are complex, multi-year projects and may involve multiple funding partners, multiple jurisdictions and multiple academic disciplines. In Canada and, indeed, the Western world, research proposals undergo rigorous review by REB's in accordance with established ethics guidelines and standards, including the federal Tri-Council Policy Statement on Ethical Conduct for Research Involving Humans (TCPS2), and separate peer-review for scientific quality and methodology.

It is important to note the following excerpt from the federal TCPS2 (p. 7) with respect to the principle of academic freedom:

… Academic freedom includes freedom of inquiry, the right to disseminate the results of that inquiry, freedom to challenge conventional thought, freedom to express one's opinion about the institution, its administration or the system in which one works, and freedom from institutional censorship. With academic freedom comes responsibility, including the responsibility to ensure that research involving humans meets high scientific and ethical standards that respect and protect the participants. Thus, researchers' commitment to the advancement of knowledge also implies duties of honest and thoughtful inquiry, rigorous analysis, commitment to the dissemination of research results, and adherence to the use of professional standards. There is a corresponding responsibility on the part of institutions to defend researchers in their efforts to uphold academic freedom and high ethical, scientific and professional standards.[5]

Thus, it is important to emphasize the distinction between records created by Memorial University as a "public body" under the *ATIPPA* and the work created by the academic community in the course of research. The exclusion of research, like teaching materials, recognizes as noted above that academic principles and autonomy of faculty within a university are not part of the public sphere that is covered by the *ATIPPA.*

Recommendation #2

Memorial University submits that s. 5 of the *ATIPPA* should remain unchanged.

OIPC Jurisdiction

Memorial University recognizes that the information and privacy commissioner has a vital role in oversight of the *ATIPPA*. We acknowledge that the commissioner requests amendments to the legislation to provide his office with authority to review records that are excluded under s.5. We note that in the commissioner's submission on this point (on page 51), the reader is left to infer that the commissioner previously had legislative authority to review s.5 records and is seeking to have it

[5] Available here: http://www.pre.ethics.gc.ca/eng/policy-politique/initiatives/tcps2-eptc2/Default/.

restored. We note, however, that the *ATIPPA* never contained this authority for the commissioner. When questions have arisen as to the OIPC's jurisdiction and his office's ability to compel production of excluded records, three separate decisions of the Supreme Court Trial Division, as noted above, confirmed this interpretation of the *ATIPPA*.

Memorial University submits that while the *ATIPPA* applies to the executive branch of government and its agencies, it is not intended to apply to every function within the public sphere. Section 5 of the *ATIPPA*, in effect, recognizes that freedom of information law is not the only mechanism of transparency and accountability in a democracy. In our system of responsible government, the executive is accountable to the legislature and the legislature to the people. The separation of the executive and the legislative branches of government from the judiciary, the independence of the courts, and the transparency of our criminal justice system are fundamental mechanisms of accountability. Just as the *ATIPPA* does not apply to the judicial and legislative branches, it does not apply to the academic sphere in which scholarly pursuits must proceed in a manner that respects the principle of academic freedom, upon which university discourse and success are based. Academic freedom is defined as "... the freedom of professors to teach, research and publish, to criticize and help determine the policies of their institutions, and to address public issues as citizens without fear of institutional penalties."[6]

With respect to the exclusion of scholarly research, in particular, as was noted above under the heading Research, Memorial submits that review of research belongs not with the office of the information and privacy commissioner but with those authorities that are best informed and equipped to undertake such activities, and are uniquely qualified to review research to ensure the rights, welfare and privacy of human research participants (when present in a given research project) are protected. As well, Memorial University cites the requirements of the Tri-Agency Agreement and referenced Framework as federally endorsed oversight for the responsible conduct of research.

Memorial University recognizes the concern expressed by the information and privacy commissioner that he is without jurisdiction over certain types of records. A possible solution is that when a public body denies access to an ATIPP applicant on the basis of s. 5 or on the basis that the public body does not have custody and control of records sought, then a sworn affidavit or declaration from the public body to this effect should be provided to the commissioner should a review by his office be sought by the ATIPP applicant.

Memorial also wishes to clarify representations made by the information and privacy commissioner in his submission to the ATIPPA Review Committee in which he discusses *Ring v. Memorial University of Newfoundland*, 2014 CanLII 12849 (NL SCTD). On pages 63-64 the commissioner notes that Memorial University declined the offer of Madam Justice Butler to "bring the parties before her to adjudicate the application of s. 5 to the responsive records involved in the case," leaving readers to infer that his office felt otherwise. However, at the beginning of the first day of the hearing into the matter, Madam Justice Butler asked the parties whether they wished the hearing to proceed as a judicial review of the records or appeal. The OIPC requested it proceed as an appeal, as did Memorial University. In her written

[6] The definition of "academic freedom" is taken from the Canadian Encyclopedia, 2012 and is available at: http://www.thecanadianencyclopedia.ca/en/article/academic-freedom/.

decision, Madam Justice Butler again invited the parties to adjudicate the application of s. 5 to the records but the OIPC again rejected the offer and instead proceeded with an appeal to the Court of Appeal.

Recommendation #3

Memorial University recommends that when conducting a review under s. 43 the information and privacy commissioner be empowered to require a sworn affidavit or declaration from a public body when access is denied because records are not in the custody and control of the public body or are outside the scope of the *ATIPPA* pursuant to s. 5.

Time limit for response

Memorial University submits that the time limits for responding to ATIPP requests are appropriate, as is the provision added in the 2012 amendments that permits the information and privacy commissioner to authorize a further extension of the time for responding to a request. Since that amendment (to s.16) in 2012, the university has asked the OIPC a number of times to permit a further extension and, in each case, the extension was granted. The flexibility offered by sub-section 16(2) in which the commissioner can authorize extension of the time limit for a period longer than 30 days is a flexibility that is necessary when, from time to time, an ATIPP request is for a particularly large volume of records, or the requester does not provide sufficient detail to enable the public body to identify records sought, or the request merits an extension that the commissioner otherwise deems to be appropriate.

The *ATIPPA* does not allow additional processing time when an applicant modifies a request. A recent ATIPP applicant modified her request multiple times, each requiring a new search in accordance with the new parameters. The legislation also does not provide a pause in the 30 day timeline while a public body waits for clarification from an ATIPP applicant. In a recent case, the IAPP office waited 28 days for responses to requests for clarification. Despite numerous emails and telephone messages that sought to help the applicant to clarify the request, reduce fees and achieve a full response as efficiently as possible, four weeks passed before the request was clarified in sufficient detail by the applicant to enable identification of the records sought.

Notwithstanding efforts by the IAPP office to work with applicants to clarify and focus their requests, requests often are significant in scope. Attached as Appendix A is a list of the ATIPP requests received by Memorial in the fiscal year 2013-14. Processing requests takes considerable time in identifying, locating and retrieving records, arranging records in chronological order, conducting a line-by-line review of each page as required by sub-section 7(2) to identify information that must be withheld under a mandatory exception to disclosure or may be withheld under a discretionary exception. We note, as well, that records are kept in a variety of electronic formats: email, Microsoft Word, Excel, Adobe pdf, etc. All records have to be converted to be used in RapidRedact, the software used by the university to review and redact records. Time spent processing requests includes correspondence and discussions with the applicant, affected third parties, and employees of units having responsive records, following up with

employees to obtain further records, information and clarification, and developing fee estimates, if applicable. Consultations are held with university officials to discuss each item of information that is subject to a discretionary exception in order to make decisions to release or withhold information. The Procedure for Managing an ATIPP Request[7] sets out the process followed in managing requests. When a large number of records is involved, the line-by-line review is particularly labour intensive. The IAPP office must ensure consistent treatment of records (protecting someone's privacy by redacting information each time it appears, for example, in an email thread that is repeated a dozen times, is a violation of the person's privacy and a pointless exercise if the same information is overlooked on another page and is released through error).

On one particular day, the university received four ATIPP requests, one of which was for records from 25 offices and 17 named individuals, including several professors, and which required reviewing more than 5,000 pages of records. The other three requests that day required retrieval and review of more than 3,500 pages of records. Notwithstanding its best efforts to process these requests quickly, the university was not able to respond within the statutory deadlines. Another request from a student pertaining to that student's academic program involved the review of more than 5,000 pages spanning several years and included records pertaining to disputes and discussions among the student, academic supervisors, individuals internal and external to the university, and an academic misconduct investigation. In responding to requests, the university must at all times consider the rights of the applicant but also those of third parties, including employees and professors, whose records are sought, the university's obligations under the *ATIPPA* and relevant contracts, policies and collective agreements. Even requests that are less complex and voluminous require sufficient time to process them properly.

In the past three years, Memorial University has received 62 ATIPP requests, averaging 21 per year. These numbers reflect requests that were formally processed under the *ATIPPA* and do not reflect informal requests for information and do not reflect ATIPP requests that were withdrawn by the applicant when the information sought was able to be easily and quickly provided, without redaction of information. In accordance with Memorial's approach of responding informally where full access can be granted, records that are processed under the *Act*, therefore, usually have some information redacted in order to protect third-party privacy interests or in accordance with discretionary exceptions to disclosure in the *ATIPPA.* The university has rarely, if ever, relied on certain exceptions to disclosure, including cabinet confidences, local public body confidences and disclosures harmful to law enforcement, intergovernmental relations, conservation, and individual or public safety. The discretionary exceptions to disclosure most often relied upon by Memorial are s.20 (policy advice, recommendations, analyses, deliberations), s.22.1 (confidential evaluations), s.27 (disclosure harmful to business interests of a third party) and s.30 (disclosure harmful to personal privacy). These are discussed below under V. ATIPPA: Part III – Exceptions to Disclosure.

The university takes its responsibilities to ATIPP applicants seriously and endeavours at all times to assist applicants in obtaining the information they seek. Managing ATIPP requests and providing access to as

[7] Available at: http://www.mun.ca/policy/site/procedure.php?id=340.

much information as possible while, at the same time, ensuring that other obligations are not overlooked takes time and care, and the current statutory timelines in the *ATIPPA* generally permit the university to meet this balance.

Recommendation #4

Memorial University recommends that the time limits for responding to ATIPP requests not be changed.

IV. OPINIONS

Memorial University has significant concerns about the treatment of opinions under the *ATIPPA.* The legislation clearly provides that the opinions of employees are not their personal information when delivered in the course of providing services to a public body (30(2)(h)) and when the opinion is about another person, it is the personal information of that person, not the opinion holder (2(o)(ix)). This treatment of opinions is problematic for three reasons:

1. Intuitively, it does not make sense to say that people's opinions are not their personal information. In society, we often hear people say, "This is just my opinion." Opinions are directly related to freedom of expression. In a highly-decentralized environment which is characterized by autonomy of faculty and academic freedom, circumscribing opinions is akin to restricting freedom of expression. The *ATIPPA*'s treatment of opinions has the potential to censor autonomy, stifle creativity, and provoke a fear of retaliation, all of which would interfere with important collegial decision-making that the university relies on in academic matters. A person's opinion often is closely connected to the values of dignity, integrity and autonomy that underlie personal privacy.
2. As set out in the first paragraph of this submission under Application to Higher Education, the *ATIPPA* assumes that opinions expressed by employees in the course of performing services for their employer are deemed to be made at the direction of the head of the public body, or a designate, and for which the head of the public body is accountable. At the university, however, opinions expressed by faculty members – even in the course of performing services for the university – are their personal opinions and, in accordance with long-standing practice and custom, usually not provided to the university administration. For example, a committee of faculty members recommending a hiring or promotion and tenure decision provides a report of its conclusions and recommendations to the administration, but the committee's discussions and deliberations are by custom and practice not supplied, as is the case in other universities.
3. Moreover, employees may express opinions in an email or other format which are the opinions of the employee only and in no way represent the views of their employer. Indeed, no employer would direct an employee to express opinions that cannot be supported by the public body. Yet, in an ATIPP request, an email containing ill-considered and unfounded opinions by an employee would not be the personal information of that employee. (For a further discussion on email, see the section below titled Section 20.) Rather, they would be records of the public body for which the head of the public body would be accountable, which begs the question: why should the

public body own an opinion expressed by one employee about another or be responsible for propagating it?

When the university receives an ATIPP request, until the responsive records are retrieved and reviewed, the institution cannot know what might be contained in them. If the records are deemed to be responsive records and they contain personal opinions of a faculty member, even a frank, personal and confidential email exchange between two faculty members about a colleague (a third party), the *ATIPPA* presumes these are delivered at the behest of the head of the public body and function as opinions for which the head is accountable. While the two faculty members in such a scenario would view their email exchange as their private correspondence to which the university has no right, the *ATIPPA* presumes it is "university business" and, furthermore, not the personal information of the two faculty members but instead the personal information of the third party. Memorial University submits that the *ATIPPA* is not meant to stifle or violate privacy of communication, essential to human dignity.

As pointed out to a member of the university's ATIPPA Review working group in a discussion about the *ATIPPA's* treatment of opinions, "Not everything that is legally permissible is morally acceptable … a decent community depends upon some trust that a culture is reliably in place that will discern the difference …". These concerns, as expressed by a faculty member, are well illustrated in a scene from Kundera's "The Unbearable Lightness of Being," in which a frank discussion between two colleagues was broadcast publicly. In writing about this scene in his *Testaments Betrayed*, Kundera says, "that we act different in private than in public is everyone's most conspicuous experience, it is the very ground of the life of the individual; curiously, this obvious fact remains unconscious, unacknowledged, forever obscured by lyrical dreams of the transparent glass house, it is rarely understood to be the value one must defend beyond all others ... that private and public are two essentially different worlds and that respect for that difference is the indispensable condition, the *sine qua non*, for a man to live free ...".[8]

Recommendation #5

Memorial University recommends that the ATIPPA Review Committee give serious consideration to the treatment of opinions in this legislation and recommends that the definition of personal information be changed as described in Recommendation #1.

V. ATIPPA: PART III – EXCEPTIONS TO DISCLOSURE

Section 20

Section 20 of the *ATIPPA* is a discretionary exception to disclosure of policy advice, recommendations, deliberations and analyses. Its purpose is to permit full and frank discussion of strategic and day-to-day policy questions. The protection of policy advice in access to information law reflects the traditional role

[8] Kundera, Milan. 1995. *Testaments betrayed.* New York: HarperCollins, p.261.

of the bureaucracy in providing fearless and honest analysis and advice – speaking truth to power. Prior to the 2012 amendments, s. 20 protected policy advice and recommendations, not deliberations and analyses. Memorial University agrees with the information and privacy commissioner's submission that the addition of deliberations and analyses expands the scope of information that could be withheld in an ATIPP request. However, for two reasons, we submit that s. 20 as currently stated in the *ATIPPA* better reflects today's reality for public employees:

1. Today, records of policy discussions increasingly are found in informal, electronic communications as well as in traditional briefing notes and memos. Technology enables employees to have informal discussions and to create numerous drafts and re-drafts via email, often with only minor changes but constituting, nonetheless, for ATIPPA purposes "new" records. For example, seven new records are created when a draft document is sent to seven people. The many drafts and copies of drafts and re-drafts that reside in multiple user accounts are responsive to an ATIPP request (unless the applicant expressly requests to be provided only with the final version) and must be reviewed under each exception to disclosure in the *ATIPPA*. Memorial University respectfully disagrees with the position of the information and privacy commissioner that the wording in the exception for policy advice should revert to the wording in place prior to the 2012 amendments. Memorial submits that in addition to prolonging the time required to respond to a request, protection of advice and recommendations only, and not deliberations and analyses, risks public employees and officials avoiding the creation of records. Respected Canadian public administration scholar Donald Savoie quotes a senior Government of Canada official who said, "We are now all sitting ducks ... It is possible now for someone to ask for all exchanges, including emails, between senior official X and senior official Y. We can no longer blue sky ... We no longer have the luxury of engaging in a frank and honest debate. It is now very difficult to put down on paper – be careful, minister, there are problems with your ideas and what you want to do."[9] Savoie goes on to suggest that the fear of committing ideas and analysis to paper leads to less disciplined thinking as strong memoranda give way to PowerPoint presentations and that, in fact, "the process has become less transparent than it once was."[10] This "oral culture" has created the problem noted by information and privacy commissioners and others that decisions are made without any supporting documentation. Making important public policy decisions without supporting documentation undermines the quality of decision making, the effectiveness of internal and external audits, and value of historical records.[11] Memorial submits that the importance of record-keeping cannot be overstated and a narrow protection for policy advice will directly and inescapably lead to an oral culture and reluctance to record important discussions.

2. Email discussions, in particular, often contain raw information that has not gone through any kind of filter, consideration or review process. Electronic communications is a medium that is

[9] Savoie, Donald. 2010. *Power: Where is it?* McGill-Queen's University Press, pp. 120-121.
[10] Savoie, p.120.
[11] Savoie, p.122.

> usually not vetted by a supervisor, contains no sober, second thought and may never make it into an official record of the institution. Accountability for the kind of tentative and unfiltered information contained in an email may be meaningless.

Memorial University submits that the current wording of s.20 is aligned with the "policy advice" provisions of access to information and protection of privacy legislation in Alberta, Saskatchewan, Manitoba, Nunavut, Yukon, Northwest Territories, New Brunswick and Prince Edward Island and ought to remain unchanged.

Recommendation #6

Memorial University recommends that the current wording of s. 20 remain unchanged.

Section 22.1

Section 22.1 was added to the *ATIPPA* in 2012 and is similar to provisions in access and privacy statutes in other provinces. Section 22.1 is a discretionary exception to disclosure of confidential evaluations and opinion material compiled for the purpose of determining suitability for employment, admission to an academic program, tenure, and honours or awards and assessing teaching materials or research. Decision-making in respect of these matters strongly relies on input and feedback from the university community. Assurances of confidentiality are important in all these matters and particularly important to members who, because of their position as a student or non-tenured professor, for example, may otherwise choose not to participate for fear of harm to their academic progress, collegial relationships or promotion.

The current wording of the discretionary exception to disclosure of evaluative and opinion material requires that the information be *provided* explicitly or implicitly in confidence and *compiled* for specific purposes. A lack of clarity around the word "provided" means it could be interpreted to mean evaluative and opinion material that is supplied to the university by an outside person or body and not material that is prepared by an internal committee or person or provided to an internal committee by another member of the university community. For example, a fundamental aspect of hiring an academic administrator is a presentation by a candidate to the university community, on which confidential, written feedback is provided to the hiring committee by faculty and administrative staff, students, alumni and others. Memorial University submits that this exception to disclosure ought to cover evaluative and opinion material that is prepared or provided explicitly or implicitly in confidence.

The purposes for which a public body may withhold from an applicant evaluative or opinion material include determining suitability, eligibility or qualifications for employment and the granting of tenure. These purposes arguably do not include promotion. Normally, applications for tenure include applications for promotion. Additionally, non-academic employees seek promotional opportunities within the institution. Memorial submits that the wording in 22.1(c) should include promotion.

Recommendation #7 Memorial University recommends two minor changes to s. 22.1, as follows:

Current Wording	Recommended Wording
22.1 The head of a public body may refuse to disclose to an applicant personal information that is evaluative or opinion material, provided explicitly or implicitly in confidence, and compiled for the purpose of (a) determining suitability, eligibility or qualifications for employment or for the awarding of contracts or other benefits by a public body; (b) determining suitability, eligibility or qualifications for admission to an academic program of an educational body; (c) determining suitability, eligibility or qualifications for the granting of tenure at a post-secondary educational body; (d) determining suitability, eligibility or qualifications for an honour or award to recognize outstanding achievement or distinguished service; or (e) assessing the teaching materials or research of an employee of a post-secondary educational body or of a person associated with an educational body.	The head of a public body may refuse to disclose to an applicant personal information that is evaluative or opinion material, **prepared or** provided explicitly or implicitly in confidence, and compiled for the purpose of (a) determining suitability, eligibility or qualifications for employment or for the awarding of contracts or other benefits by a public body; (b) determining suitability, eligibility or qualifications for admission to an academic program of an educational body; (c) determining suitability, eligibility or qualifications for the granting of **promotion or** tenure at a post-secondary educational body; (d) determining suitability, eligibility or qualifications for an honour or award to recognize outstanding achievement or distinguished service; or (e) assessing the teaching materials or research of an employee of a post-secondary educational body or of a person associated with an educational body.

Section 22.2

Section 22.2 was added when the *ATIPPA* was amended in 2012. It contains a mandatory exception to disclosure to an ATIPP applicant of information that would reveal the substance of records collected or made during a workplace investigation. Section 22.2 also contains a provision that a public body must disclose the substance of records to a party to an investigation and must disclose to a witness in an investigation information that relates to the witness's statements provided in the course of the investigation.

Workplace investigations at or on behalf of Memorial University include investigations carried out under the Sexual Harassment policy, Respectful Workplace policy and Protected Disclosure policy, as well as academic misconduct and other investigations carried out in accordance with the relevant collective agreement.

The information and privacy commissioner, in his submission dated June 16, 2014, recommends two changes: (1) that "substance of records" be replaced with "all relevant information created or gathered for the purpose of a workplace investigation" and (2) that the mandatory exception to disclosure of information to an applicant who is not a party or witness be removed, arguing that it is adequately covered under s. 30 (protection of personal information).

Memorial University respectfully submits that "all relevant information created or gathered" is too broad. The records that are and ought to be available to the parties to an investigation are those records on which findings and decisions are based which, we submit, constitutes "substance of records." Requests for incidental records of investigators' notes, email and drafts may be sought by a party to an investigation but should be considered in the light of other exceptions to disclosure, including policy advice, recommendations, analyses and deliberations, solicitor-client privilege, and the exception to disclosure of personal information in s. 30.

Recommendation #8

Memorial University recommends that the current wording of s. 22.2 remain unchanged.

Sections 27, 28, 29, and 64

Section 27 is a mandatory exception to disclosure that prohibits a public body from disclosing information that would harm third-party business interests.

Memorial University enters into contracts for a wide variety of purposes, goods and services. As an overview, the types of contracts range from professional services, food services, credit card services, office supplies and equipment, to international affiliation and exchange agreements with other universities, academic program reviews, contracts with sponsors (public and private) of research by university-affiliated researchers, software-as-a-service agreements, and clinical-fieldwork education agreements.

At times, external organizations are competing for Memorial University business and, in other cases, it is Memorial University that is competing with other universities and organizations for such things as major research sponsorships and offshore training contracts. As such, Memorial University is cognizant of the impact of s. 27 as both the decision maker assessing an ATIPP request as well as a potential third party that may need to rely upon protection of its competitive position.

Most contracts and agreements contain confidentiality provisions that are intended to protect proprietary information of the parties. Memorial University does require, wherever possible, all such agreements to include a provision in which the other contracting party acknowledges that the university is subject to the *ATIPPA.* Thus, Memorial University normally gives the contracting party advance notice of the fact that the associated records may become subject to an access to information request.

Memorial submits that the current language of s. 27 is appropriate. As stated earlier in these submissions, the *ATIPPA* is dual-purpose legislation: it provides for transparency of public bodies through access to records, while also maintaining a degree of confidentiality for certain types of information. The language of s. 27 as it currently is stated is in line with balancing those two interests. In maintaining the language of s. 27 as it is currently stated, Newfoundland and Labrador will remain in step with several other provinces and territories, including New Brunswick, Manitoba, Saskatchewan, the Northwest Territories and Nunavut.

Like sections 18 (cabinet confidences) and 30 (personal information), s. 27 is a mandatory exception to disclosure. Public bodies are prohibited from disclosing information that would harm a third party's business interests. A public body must, therefore, assume that the intent of the legislation is to assign particular importance to third-party business interests. The mandatory nature of s. 27 presumably means that a public body must be careful to not reveal a company's trade secrets, or confidential commercial or financial information, or information that would harm a company's competitive position.

Section 28 requires that when "the head of a public body" is considering giving access to a record that "the head has reason to believe contains information" that may be exempted from disclosure under s.27, the third party must be notified and given an opportunity to consent to disclosure or make representations as to why the information should not be disclosed.

If the third party's position is that the information ought not to be disclosed and provides its reasons, under s.29 the public body must choose to either: (1) accept the third party's representations and deny the applicant access; or (2) make a decision to give access notwithstanding the third party's representations. If it proceeds under (1), and the applicant requests a review by the OIPC, the burden of proof is on the public body to prove the applicant has no right of access.

This puts the public body in a difficult position. As noted above, Memorial University enters into a wide range of contracts. Given the diversity of the subject matter of the various contracts, it is not possible for the university to understand the diverse competitive environments in which various contracting parties operate.

In order to meet the burden of proof, the public body has to provide convincing and detailed evidence as to the harm that would occur should the information be disclosed. As the public body would not have access to the technical and market conditions of a particular industry or business sector, it is quite difficult for a public body to provide such information and to carry the burden of proving that disclosure of information could harm the business interests of a third party. Further, the public body will need to maintain some form of a relationship with the third party in respect of the ongoing contractual obligations. This leaves one to speculate whether the public body can effectively and fairly weigh the competing interests of the applicant and the third party.

The public body could, as noted by the OIPC in a previous decision[12], regardless of the persuasiveness of representations made by a third party under s.28, choose to make a decision to release and, thereby, shift the burden of proof to the third party. However, this approach would not account for contractual obligations to the third party or the benefits of maintaining a respectful contractual relationship. Further, this would not save the public body from being involved in a review before the OIPC and possibly a court appearance.

We note as well that under s.29(3) if the public body has decided to release the records, the third party then has twenty (20) days to ask the OIPC to review the matter. Of note is the fact that, at this stage, the third party's only option is to seek a review by the OIPC. The third party does not have a right, at that point in time, to proceed directly to review by a court.

Regarding Submission to ATIPPA Review Committee by Dicks & Co.

With respect to the submission of Dicks & Co., Memorial University thinks that it is appropriate to clarify a point.

In his submission on behalf of Dicks & Co., Mr. Barry Tilley argues that the experience of the company in respect of ATIPP requests to Memorial University serves to illustrate that the 2012 amendments weakened s. 27. Mr. Tilley indicated that the types of records they received prior to the s. 27 amendment were not available to them after the amendments came into force. However, the record types sought prior to the amendment were different from those sought after the amendment.

When Dicks & Co. sought a copy of bids made by competitors, they were supplied; but when Dicks & Co. filed an ATIPP request in September 2012 for a record of *non-contract* office supply items, the affected third party took the position that this would seriously harm its competitive position. We cannot know how that request, had it been made before s. 27 was amended, would have unfolded.

Recommendation #9

Memorial University recommends that s. 27 of the *ATIPPA* remain unchanged and that the ATIPPA Review Committee consider the challenge for public bodies presented by the burden of proof in s.64.

Section 30

> "It blows my mind that someone could request information about me and it could be provided by the university without me ever knowing about it."

This comment was made by a Memorial University employee in June 2014 and it embodies a fundamental flaw in the *ATIPPA*.

[12] See paragraph 27 of Report A-2013-008, Office of the Information and Privacy Commissioner, available at: http://www.oipc.nl.ca/pdfs/A-2013-008_GPA.pdf

Memorial University's concern with the current wording of s. 30 is that it makes no allowance for third-party consultations in respect of personal information. Memorial submits that like the *Freedom of Information and Protection of Privacy Act* in Ontario and the *Freedom of Information and Protection of Privacy Act* in British Columbia, the *ATIPPA* should be amended to provide for notice to a third party when a public body is contemplating disclosure of information that it reasonably believes may be a violation of the third party's privacy. The provision of Ontario's *FIPPA* states:

> 28. (1) Before a head grants a request for access to a record,
> (a) that the head has reason to believe might contain information referred to in subsection 17 (1) that affects the interest of a person other than the person requesting information; or
> (b) that is personal information that the head has reason to believe might constitute an unjustified invasion of personal privacy for the purposes of clause 21 (1) (f),
> the head shall give written notice in accordance with subsection (2) to the person to whom the information relates. R.S.O. 1990, c. F.31, s. 28 (1).
>
> *Freedom of Information and Protection of Privacy Act*
> R.S.O. 1990, CHAPTER F.31, s.28

The section in British Columbia's legislation that deals with notice to third parties (under s.21 in respect of business information and s.22 in respect of personal information) reads:

> 23 (1) If the head of a public body intends to give access to a record that the head has reason to believe contains information that might be excepted from disclosure under section 21 or 22, the head must give the third party a written notice under subsection (3).
> (2) If the head of a public body does not intend to give access to a record that contains information excepted from disclosure under section 21 or 22, the head may give the third party a written notice under subsection (3).
> (3) The notice must
> (a) state that a request has been made by an applicant for access to a record containing information the disclosure of which may affect the interests or invade the personal privacy of the third party,
> (b) describe the contents of the record, and
> (c) state that, within 20 days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the public body explaining why the information should not be disclosed.
> (4) When notice is given under subsection (1), the head of the public body must also give the applicant a notice stating that
> (a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party,
> (b) the third party is being given an opportunity to make representations concerning disclosure, and

(c) a decision will be made within 30 days about whether or not to give the applicant access to the record.

Freedom of Information and Protection of Privacy Act
[RSBC 1996] CHAPTER 165

Memorial University submits that notice to a third party whose privacy interests may be affected by a disclosure is appropriate and to be recommended as an important protection of privacy because it will enable the third party to seek an independent review of the decision by the information and privacy commissioner or by the courts.

Recommendation #10
Memorial University recommends that the *ATIPPA* be amended by adding a provision similar to s. 23 of British Columbia's *Freedom of Information and Protection of Privacy Act* for notice to third parties whose privacy interests may be affected by a disclosure of records.

VI. ATIPPA: PART IV – PROTECTION OF PRIVACY

Use of personal information by post-secondary educational bodies

At the request of Memorial in 2010 in its submission to then Commissioner Cummings, amendments to the *ATIPPA* in 2012 included a new s. 38.1 to provide express authority for a post-secondary institution to use personal information in its alumni records for the purpose of its own fundraising and advancement activities. The section reads:

38.1 (1) Notwithstanding section 38, a post-secondary educational body may, in accordance this section, use personal information in its alumni records for the purpose of its own fundraising activities where that personal information is reasonably necessary for the fundraising activities.

(2) In order to use personal information in its alumni records for the purpose of its own fundraising activities, a post-secondary educational body shall

(a) give notice to the individual to whom the personal information relates when the individual is first contacted for the purpose of soliciting funds for fundraising of his or her right to request that the information cease to be used for fundraising purposes;

(b) periodically and in the course of soliciting funds for fundraising, give notice to the individual to whom the personal information relates of his or her right to request that the information cease to be used for fundraising purposes; and

(c) periodically and in a manner that is likely to come to the attention of individuals who may be solicited for fundraising, publish a notice of the individual's right to request that the individual's personal information cease to be used for fundraising purposes

(i) in an alumni magazine or other publication, and

(ii) in a newspaper of general circulation in the province.

(3) A post-secondary educational body shall, where requested to do so by an individual, cease to use the individual's personal information under subsection (1).

(4) The use of personal information by a post-secondary educational body under this section shall be limited to the minimum amount of information necessary to accomplish the purpose for which it is used.

The university submits that the requirement under 2(c)(ii) to publish opt-out notices in a newspaper of general circulation in the province does not facilitate effective communication to the target audience in question and unnecessarily adds a financial and operational burden to the university.

The university's office of Alumni Affairs and Development regularly and through multiple channels offers all alumni the ability to opt out of the use of their information for fundraising purposes. For example, regular correspondence to those same individuals occurs through distribution of the alumni magazine, *Luminus* (circulation approximately 50,000) and a monthly e-newsletter (circulation approximately 41,000), and both include the opt-out notification. All additional mass email correspondence, including event invitations, calls for award nominations and notices of services and benefits, carry the same opt-out notification.

The other significant mailing by post that occurs through the office of Alumni Affairs and Development is in support of the annual fund. That letter includes an opt-out notice and the mailing reaches approximately 3,000 individuals each year. In addition, the opportunity to opt out is also given to individuals with whom we connect via telephone (approximately 20,000 annually). Finally, the opt out notice is posted on the Alumni Affairs and Development web site.

We submit that our circulation of an opt-out message via mail and email, along with communication through telephone and online posting, is more comprehensive and effective than a newspaper posting. A newspaper posting does not facilitate effective delivery of a targeted message to those alumni living in the province and also fails to address the fact that a significant percentage of our alumni population is widely dispersed across Canada and internationally.

Recommendation #11

Memorial University recommends that 38.1(2)(c) be amended to remove the requirement for publication in a newspaper of general circulation, as follows:

(c) periodically and in a manner that is likely to come to the attention of individuals who may be solicited for fundraising, publish in an alumni magazine or other publication a notice of the individual's right to request that the individual's personal information cease to be used for fundraising purposes.

APPENDIX A

Memorial University
ATIPP Requests: April 1, 2013 – March 31, 2014 (paraphrased)

	REQUEST
1.	All records from 01/01/2007 to present from [name of academic unit], in particular from [names of three employees] pertaining to [an academic program]. (Seven key words for searching were offered, including the name of a particular third party business, but most key words were very generic and would have produced hundreds of records not related to the Request.]
2.	I am seeking access to all records, minutes, correspondence, e-mails, notes, and any miscellaneous correspondence concerning my recent application for promotion and tenure.
3.	Copies of Memorial University's electricity bills for January and February 2013.
4.	I am seeking a copy of the new food services contract between Aramark Canada Ltd. and Memorial University St. John's campus. I am conducting related research on Canadian campus food systems. I would prefer an electronic copy if possible.
5.	From the time I applied for a tenure-track position at [name of academic unit], Memorial University, any and all correspondence that has my name and/or initials mentioned in the form of any documents, search committee notes, emails, etc., dating from 2007 to date of ATIPP request, held by [13 named individuals].
6.	Copy of full investigation report of May 2013 on the [name] academic programs and student issues from Dean of [name of faculty]; Dean – School of Grad Studies; Deputy Provost; VP Admin. & Finance; VP (Academic); Graduate Students Union.
7.	Every single bit of information held by Memorial about me (full disclosure) [name of faculty]; Student Affairs and Services; School of Graduate Studies; Marketing & Communications; Registrar's Office; Senate Committee; Deputy Provost Office; The Commons; Human Resources Office; Provost Office (VP Academic); Cashier's Office; Student Recruitment; VP Finance & Administration Office; Board of Regents; International Student Advising.
8.	Every single bit of information held by Memorial about me from [name of faculty]; School of Graduate Studies; Cashier's Office; Registrar's office; Deputy Provost Office; International Student Advising; Student Affairs & Services; Marketing & Communications.
9.	Every single bit of information held by Memorial about me from [name of faculty]; School of Graduate Studies; English as a Second Language; Registrar's Office; Provost Office; Deputy Provost Office; Student Affair & Services; VP Finance & Administration Office; Marketing & Communications.
10.	Pertaining to a workplace investigation, the complete audio tape of my interview; copies of all notes that were taken during my interview; copies of all written comments and any assessment of comments that are attributed to me, if they exist; also any emails related to my interview and testimony. .
11.	Requesting copy of Independent Medical Exam (IME) completed by [name of health care professional].
12.	Every single bit of information held by Memorial about me from [name of faculty]; School of Graduate Studies;

	Cashier Office; Registrar's office; Deputy Provost Office; International Student Advising; Student Affairs & Services; Marketing & Communications.
13.	Copies of all records relating to student academic offences including, but not limited to plagiarism, cheating, use of unauthorized aids, forging records, impersonation, and other forms of academic misconduct. This would include, but is not limited to, records such as complaints, reports, correspondence, internal memos, handling and resolution records, appeal records, disciplinary records, suspension records, and expulsion records for the academic years 2010-11, 2011-12 and 2012-13.
14.	Provide copies of all documents regarding Memorial University's involvement with David Suzuki's tour of Atlantic Canada.
15.	All records concerning an employee for a seven-year period, to include research grants applied for and received, all expense requisitions and cheque requisitions, records pertaining to litigation relating to a particular matter, correspondence to any member of the Board of Regents and any member of Senate, the President and Vice-Chancellor, Provost, Vice President Research, Vice President Administration and Finance, and [faculty dean and department head].
16.	I am requesting the following records [for a two-year period] [pertaining to a particular matter and complaints and investigations], including all records of minutes of meetings, notes taken at meetings, and notes taken relating to telephone conversations related to my case from the following individuals [names of 8 senior administrators and faculty members].
17.	Minutes, notes, and emails [for a one month period] between the grades approval committee members (and any others involved in committee's deliberations) in which my [semester] [name of course] was discussed. The persons who were involved are listed below [10 people named].