



**GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS TO  
DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL  
INFORMATION**

Office of the General Counsel  
April 2011

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 1 of 22

### TABLE OF CONTENTS

FOREWORD .....	3
DEFINITIONS.....	3
INTRODUCTION.....	4
The Purpose of the Act.....	4
Role of the Person in Charge .....	5
PART I.....	6
Right of Access.....	6
Questions and Answers .....	6
Rights of the Person Concerned by Personal Information .....	8
Restrictions to the Right of Access .....	9
PART 2.....	10
The Protection of Personal Information.....	10
What is Personal Information? .....	10
Confidentiality .....	10
Questions and Answers .....	12
Exceptions to the Protection of Confidential Information.....	14
Persons Entitled to Access Personal Information within the University.....	15
PART 3.....	15
PART 4.....	18
Academic Recommendations .....	18
Questions and Answers .....	19
Conclusions.....	20

**GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS**

---

Page 2 of 22

PART 5.....	21
Conservation of Documents .....	21
Note concerning Labour Relations.....	21

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 3 of 22

### FOREWORD

The [\*Act respecting Access to Documents held by Public Bodies and the Protection of Personal Information, R.S.Q., chapter A-2.1\*](#) the “Act” is a Quebec law which imposes certain obligations on public bodies, including universities, with respect to the collection, protection, storage, communication and conservation of Personal Information and with respect to rights of access to information held by the University.

This document entitled the *Guidelines on the Application of the Act Respecting Access* (the “Guidelines”) aims to demystify the Act for members of the University Community. The Guidelines selectively focus on those elements and procedures contained in the Act, which, in our view, are most relevant and most likely to apply in the University context. The Guidelines are not a comprehensive review or summary of the Act.

### DEFINITIONS

For the purposes of the Guidelines, the following expressions will have the meaning attributed to them below:

“Access” or “Right of Access” - The right to obtain documents held by a public body. The right to view the contents of one's own file and to ask for copies of documents. In neither case does this imply the right to remove any documents from a file.

“Personal Information” - Any combination of information that identifies a specific individual or that makes it possible to identify a specific individual: for example, name, address, phone number, social insurance number, date and place of birth, etc.

“Person in Charge” - The individual whom the highest-ranking authority in the University (the President) has designated to be responsible for the application of the Act within the University.

The “CAI” – refers to the Commission d'accès à l'information, a government body created under the Act. The CAI's duties include overseeing the application of the Act and hearing complaints or requests made by citizens for the review of certain decisions denying access requests.

INTRODUCTIONThe Purpose of the Act

In our society, extensive records are kept by several levels of Government and public agencies. The administrators of municipalities, hospitals, educational institutions, public security, health insurance plans, public pension funds, social security, and so on, are, because of the nature of their duties and services, in possession of detailed information concerning many individuals.

Public bodies also hold various documents of a more public nature, pertaining to the many areas of the administration of the institution, and more generally, to the relationships between "government" and citizens: such as statutes, regulations, guidelines, policy documents, reports, plans, proposals, agreements, official documents embodying administrative decisions, etc.

The Act was designed to promote "transparency" or openness of public administration and to ensure that all Personal Information concerning individual citizens held within the records of the public bodies would be protected from illegitimate use and access.

The Act's objectives are twofold:

- a) To provide every citizen with a Right of Access to most documents held by public bodies, and, more specifically, the right to be fully informed about the contents of his or her personal file held by a public body; and
- b) To protect Personal Information.

The Act outlines the conditions surrounding access, including provisions concerning who may have Access, how Access may be requested, which information or documentation may or may not be released and who is in the Person in Charge.

The Act provides that its application shall be supervised by the CAI.

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 5 of 22

### Role of the Person in Charge

All institutions and/or public bodies subject to the Act must appoint a Person in Charge. At Concordia University, this person is the Secretary-General.

The duties of the Person in Charge include legal functions as well as administrative duties. The legal functions involve the interpretation and application of the Act, especially in the many cases which are not clear-cut. On the administrative side, handling the requests involves requesting and obtaining communication of documents from other administrators within the institution, to ensure the correct processing of requests for Access.

All requests for Access under the Act must be addressed to the Person in Charge (Article 43 of the Act). However, since the Office of the Vice President, Institutional Relations and Secretary General does not physically hold the multitude of documents and files which could be the object of such requests, the Secretary-General must work in cooperation with those departments or services which do have the documents. Therefore, upon receipt, most requests are referred to the relevant departments or units that have the documents. Students' requests for academic documentation, or for letters of reference or recommendation, are referred to the respective Departments. Requests by faculty members are referred to the appropriate unit including their Department or the Dean's office, depending upon where the personal files are located.

Once the documents have been identified, the Person in Charge may, and often will, give Access in cases which are straightforward. In the more difficult cases, he/she is required to interpret the Act and make a decision according to the circumstances of each case. Every decision must be based upon one or more specific provisions of the Act. A request may be granted in full or denied in full. An Access request may be granted in part and denied in part. In all cases where Access is denied, in whole or in part, the Person in Charge must, in his/her response, indicate the specific provisions of the Act upon which the denial is based. (Article 50 of the Act)

It should be pointed out that while the Act outlines in some detail the duties of the Person in Charge, it does not give this person any powers to enable him or her to carry out these duties. The Person in Charge therefore relies upon the cooperation of other University employees.

PART I

Right of Access

Questions and Answers

Q.: Who is entitled to Access?

A.: Every person, whether a physical person (an individual) or moral person, such as a company, organization or association (Article 9 of the Act) has the right to make a request for Access. It is not necessary to be a resident of Quebec or a Canadian citizen in order to exercise the Right of Access.

Q.: How is Access requested?

A.: Requests for Access may be made verbally or in writing. However, verbal requests will be dealt with informally and will not receive a written reply. It is important to keep in mind that under the Act (Article 45 of the Act), only a decision made following a written request may be appealed or reviewed by the CAI. Therefore, it is preferable to make all requests in writing. To be receivable, a request for Access to a document must be specific enough to enable the Person in Charge to locate the document that is being requested. (Article 42 of the Act)

Q.: Can anyone have Access to any kind of information?

A.: There is sometimes confusion between "*information*" and "*documents*." Although the Act is often referred to as the "*Access to Information Act*", it should be emphasized that the Act does not grant a right to access information at large, but rather, a right to Access documents held by public bodies.

This means that unless the information requested is contained in a specific document or documents which the applicant can identify, the Person in Charge is not obliged to provide the information. This is true especially of requests which would require the Person in Charge to retrieve, compare and analyze information that may be scattered in many different documents. The Act does not require the Person in Charge to do that. Indeed, Article 15 of the Act provides that: "*The right of access applies only to documents that can be released without requiring computation or comparison of information.*"

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 7 of 22

In other words, if there is no existing document incorporating the requested information, the Person in Charge is not obliged to create one.

Q.: May I have Access to everything I ask for?

A.: No. The Right of Access is not an absolute, unrestricted right. The Act provides for exceptions and restrictions to the Right of Access, some of which are set out below.

Q.: May I request a summary of a conversation concerning me?

A.: No - unless the conversation was recorded. A person's Right of Access does not apply to oral information. The information must exist in a physical form of some kind: it must be recorded in writing, in print, on sound tapes, film, or in computerized form, but only in such cases can it be accessed.

Q.: How much does it cost the applicant?

A.: Access to a document for consultation is free of charge. The University does not charge the costs of research time to locate and identify the documents. The University can however charge the applicant fees for photocopying costs (what the Act calls "*fees for transcription, reproduction or transmission*"). The University may therefore charge reasonable copying fees when a large number of pages is involved. (Article 11 of the Act)

Q.: Does one need to file different applications when several documents are involved?

A.: No. A person may request Access to several documents at the same time without having to file separate applications, as long as all of the documents are clearly described and identified.

Q.: How is Access to be provided to the applicant?

A.: The applicant may personally review the documents on the premises during regular office hours, or may request that copies of these documents be sent to him or her, or both. Also, at the request of the applicant, computerized documents must be communicated in the form of a written and intelligible transcript. (Article 10 of the Act)



## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 8 of 22

### Rights of the Person Concerned by Personal Information

The rights of a person whose Personal Information is held by the University are a very important aspect of the general Right of Access.

In accordance with the Act, every person whose Personal Information may be held by a public body has the right to:

- a) be informed of the existence of Personal Information which is kept in a file concerning him or her; (Article 83 of the Act)
- b) access his or her file, i.e. to be given communication of the documents contained such a file; (Article 84 of the Act)
- c) obtain copies of documents containing Personal Information about him or her (Article 84 of the Act). If the document also contains Personal Information concerning another person, that information is removed or concealed unless such information is public under the law.
- d) request correction of the Personal Information, if it is found to be inaccurate, incomplete or equivocal. (Article 89 of the Act)

In application of these principles, all students, faculty members, as well as professional and support staff have the right to see their own files, whether they are held in the Department's or Dean's Office, Human Resources, Faculty Personnel office, the Registrar's office or any other office or department at the University.

Appointments may be scheduled for persons requesting Access, but before meeting with the applicant, his or her file must be carefully reviewed to make sure that it does not contain information or documentation that may not be communicated because of restrictions to the Right of Access. Such information and documentation must be masked and/or removed from the file.

In case of any doubt concerning which documents/information may be viewed, accessed or if a restriction applies, please contact the [Office of the General Counsel](#).

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 9 of 22

### Restrictions to the Right of Access

1. The Right of Access does not extend to personal notes written on a document or to sketches, outlines, drafts, preliminary notes or other documents of the same nature; (Article 9 of the Act);
2. The Right of Access applies only to documents that can be released without requiring computation or comparison of information; (Article 15 of the Act);
3. A public body must refuse to release Personal Information to the person concerned if its release would likely disclose Personal Information concerning another person, unless the latter gives his or her written consent; (Article 88 of the Act). In the case of an emergency situation where the life, health or safety of the person concerned is threatened, Personal Information may be released without the person's consent.
4. A public body may refuse to release Personal Information:
  - a) when such information is contained in an opinion or recommendation given by one of its members or a member of its personnel, or given at the request of the body by a consultant or advisor, and when a final decision has not yet been rendered on the matter which is the subject of the opinion or recommendation; (Article 86.1 of the Act);
  - b) when its release would disclose information whose release may or must be denied pursuant to other provisions of the Act (for example, information affecting the administration of justice and public security); (Article 87 of the Act)
5. Further restrictions are provided under the Act, not because Personal Information is involved, but for some categories of documents which are considered to be sensitive and which should be protected as confidential. For example, Access may be denied in the case of:
  - a) legal opinions (whether from an in-house counselor or an external lawyers' firm); (Article 31 of the Act)

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 10 of 22

- b) minutes of the deliberations of the Closed Session of Boards of Directors or Boards of Governors; (Article 35 of the Act)
- c) financial, commercial, scientific or technical information, if its disclosure would likely hamper negotiations in view of a contract, or result in losses for the public body or in considerable profit for another person; (Article 22 of the Act)
- d) material whose disclosure might jeopardize negotiations for a collective agreement; (Article 27 of the Act)
- e) information concerning borrowings or proposed borrowings, real estate or other business transactions, where the disclosure could unduly benefit or seriously harm a person, or could adversely affect the economic interests of the University or its members, officers and employees. (Article 21 of the Act) (Several other cases are mentioned in the Act, but do not usually apply to universities.)

### PART 2

#### The Protection of Personal Information

##### What is Personal Information?

Personal Information is defined as "*any information concerning a natural person (i.e. an individual, not a moral person) and which allows the person to be identified*" (Article 54 of the Act).

The following is considered to be Personal Information:

a person's name, address, phone number, social insurance number, date and place of birth, health record, education history, degrees, employment history, marital status, etc.

For example, a person's C.V. is composed entirely of Personal Information. A student's file or a faculty member's file contains mainly Personal Information. Any piece of information that could allow a third party to identify an individual is Personal Information.

##### Confidentiality

Personal Information is confidential under Article 53 of the Act.

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 11 of 22

The confidentiality of Personal Information is a fundamental aspect of the right to privacy, which is protected under the [Quebec Charter of Human Rights and Freedoms](#).

Every public body subject to the Act has a legal obligation to protect the confidentiality of Personal Information. In practice, this means that Personal Information must not be released to third parties without the consent of the person concerned.

This obligation has important practical implications for some University employees in front-line positions, who deal with students and faculty members on a regular basis, and who may be asked to provide access to documents by various groups or individuals inside and outside the University.

In this context, it is important to know that:

Students' phone numbers addresses and the contents of their academic records are confidential. In essence, this means that this information is not to be given to other students or to employees, except in cases when there is a work-related need to know.

Lists of students with phone numbers and addresses given by certain departments to other students in the same program of study violate the rule of confidentiality. Instructors who wish students to share phone numbers, email addresses and/or mailing addresses must obtain each student's consent in writing.

Access to Personal Information in students' files or employees' files is limited to those University employees who have a work-related need to know. The University's *Policy Concerning the Protection of Personal Information* ([VPERSG-9](#)) outlines the obligations of the University with respect to Personal Information as follows:

### Protection

1. *The University may collect personal information as is necessary to fulfill its functions and duties.*
2. *The University shall conserve and/or destroy documents containing personal information in conformity with the law and the University's applicable policies and, in particular, the Policy on Records Management and Archives ([VPERSG 10](#)).*

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 12 of 22

3. *Before creating a record or document containing personal information, University personnel shall consider whether the creation of such a record or document is necessary and required.*
4. *University personnel shall avoid creating records or documents containing personal information unless the creation of such a record or document is essential to the duties of such personnel.*
5. *University personnel shall avoid collecting and/or keeping records or documents containing any personal information which is not necessary for the specific purposes or requirements of such personnel.*
6. *In the course of their duties, University personnel may have access to personal information and are bound to:*
  - *Access and consult only the documentation and information required to fulfill their duties*
  - *Use the personal information only for the purposes of fulfilling their duties*
  - *Avoid, unless duly authorized, revealing personal information about one person to any other person*
  - *Maintain files containing personal information in such a way that their confidentiality is assured*
  - *Whenever possible, use passwords or other appropriate security measures, to protect and prevent unauthorized access to personal information*
  - *Securely shred and recycle all paper documents containing personal information in accordance with the Policy on Records Management and Archives ([VPERSG-10](#))*
  - *Inform one's superior of any situation or event that could compromise, in any way, the security, integrity and/or confidentiality of any personal information held by the University.*

### Questions and Answers

Q.: What type of consent is required to release Personal Information to third parties?

A.: The consent of the person concerned must be in writing, although the CAI has ruled that a person's consent may be inferred or may be given indirectly, e.g. if a statement informing the person of the possible disclosure of Personal Information is included in a form (such as an application form) signed by the person.

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 13 of 22

Q.: Are students' grades confidential?

A.: Yes, for third parties. The CAI has ruled that students' grades, as well as class attendance lists, are protected as confidential and may not be released to third parties. Of course the person himself or herself can always have access to his or her own grades.

Q.: What about exams?

A.: The text of an examination is not confidential *per se*. However, according to the Act, the University may refuse access to a test in order to preserve the usefulness of a test that is still in use. Article 40 of the Act provides that: "*A public body may refuse to disclose a test intended for the comparative appraisal of a person's knowledge, aptitudes or experience, until the test is no longer used.*"

Q.: May students have Access to all of the documents in their student files?

A.: Students may access most documents in their files, except for:

- a) Personal Information about other persons (which can be removed or concealed, when feasible, and the rest of the document may be accessed);
- b) letters of reference or recommendation (mostly in the case of graduate students) before a final decision is reached;
- c) confidential documents from third parties or other public bodies.

Q.: What if confidential data is removed or stolen from files, e.g. as a result of a break-in? Is the University responsible towards the students?

A.: The University is not responsible if the cause or event was beyond its control and if reasonable precautions had been taken to protect the information, for example if the files were kept in a locked filing cabinet.

However, in the event of such an occurrence, two steps are taken

- a) students whose files were involved in the break-in are advised

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 14 of 22

- b) the CAI is informed and the University indicates to them the measures taken to correct the situation

### Exceptions to the Protection of Confidential Information

Personal Information can be released if the person concerned has authorized its disclosure. However, sometimes Personal Information is deemed to be public or, even if it is not deemed to be public, it can be released without the consent of the person concerned when overriding factors of public policy and/or security are at stake.

For example:

- a) The Act provides that some Personal Information is public (ie. the names, salaries, business addresses and telephone numbers, titles and duties of members of Boards of Directors or Governors of public bodies, and members of the management personnel of public bodies; (Article 57 (1) of the Act)
- b) Personal Information can be released to the institution's attorneys, in the context of a lawsuit initiated by the institution or against it; (Article 59 (1) of the Act)
- c) Personal Information can be released if requested by police officers during an investigation for the purpose of a prosecution for an offence against an act applicable in Quebec (Article 59 (3) of the Act)
- d) Personal Information is shared in emergency situations, when the life, health or safety of a person is threatened; (Article 59 (4) of the Act). Also, in certain exceptional cases, such as situations involving violence, the threat of violence, suicide or danger caused by the presence of a firearm, it is necessary and permissible for the University to release Personal Information to the authorities. The University's *Policy on the Emergency Release of Personal Information* ([VPERSG-5](#)) sets out the conditions under which such information can and/or must be shared with the authorities.
- e) In accordance with Article 125 of the Act, Personal Information is provided to a person authorized by the CAI, to use the information for study, research or statistical purposes; (Article 59 (5) of the Act)

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 15 of 22

- f) Personal Information can be released if the provision of the information is necessary for the carrying out of a collective agreement, order, regulation or guideline establishing conditions of employment (Article 67.1 of the Act)

Persons Entitled to Access Personal Information within the University

Q.: In addition to the person concerned, who can have Access?

A.: According to the Act, *"every person qualified to receive Personal Information within a public body has access to Personal Information without the consent of the person concerned, where such information is necessary for the discharge of his or her duties."* (Article 62 of the Act) Persons permitted to have access do so only on a need-to-know basis.

### PART 3

#### Access to Documents by Undergraduate and Graduate Students

##### Student Record

The student record is a comprehensive report of a student's academic history at the University. It is a complete academic record and includes all courses followed at Concordia as well as information concerning academic standing and, when applicable, disciplinary measures. It is available to the student and to authorized University staff and faculty.

Q.: Who has access to the Student Record?

A.: The student and certain Concordia employees whose job entails access to it.

Q.: When?

A.: A student has access any time after registration. Even years after leaving Concordia, the student record continues to be accessible.

Q.: How and where can a student access his/her student record?

A.: Students may access their record at any time through the Concordia website, [www.myconcordia.ca](http://www.myconcordia.ca), at no charge. For a small fee, students may obtain a copy of their



## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 16 of 22

record from the Birks Student Service Centre during normal operating hours or by written request.

Q.: Transcript

A.: A transcript is a version of a student's record intended for the use of external institutions, organizations, and employers. It is a complete academic record and includes all courses followed at Concordia. It is accompanied by an explanation of its terminology and is sent directly to the addressee at the written request of the student, provided that there is no outstanding account owing to the University. An official transcript is printed on security paper, and is signed and sealed by the Registrar's representative.

Requests to issue official transcripts of the student record to other institutions must be made in writing. Registrar Services has an online form or a form available at the Birks Student Service Center for that purpose. To request an official transcript for someone else, a signed letter of authorization must be presented.

### Student File

The official student file typically consists of paper and electronic documents. The file contains a copy of the acceptance letter, and, as applicable:

- a) The application for admission to Concordia
- b) The evaluation of the application for admission
- c) A rejection or cancellation letter
- d) A copy of the birth certificate, citizenship or permanent residency papers, passport or affidavit
- e) Correspondence from the student
- f) Letters from third persons
- g) Letters or records concerning academic standing,

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 17 of 22

h) Decisions regarding student requests

i) The results of diagnostic tests

A student's file is strictly confidential. A third party may not consult or have access to a student file without the express written consent of the student. A student's complete file may consist of several files held by the relevant departments, units and/or university services.

Q.: Who has access to a student file?

A.: The student has access as well as Concordia employees who are authorized to access the file as required for job-related purposes. Students may view all of the documents in their file subject to the exceptions provided in the Act which include but are not limited to the following:

- a) Letters of recommendation or reference before the relevant decision has been taken. For example, if a student has applied to a graduate or diploma program and the application has been accepted or rejected, the student may see these letters, however the letters may not be seen before the final decision is made.
- b) Handwritten memoranda or notes which are not covered by the Act.
- c) Any document or part of a document which reveals Personal Information about another person is confidential unless that person gives his or her written consent.

Q.: When is the student file created?

A.: The student file is opened as soon as the student's application is received at Concordia.

Q.: How and where can a student access his/her student file?

A.: The online Student Portal is the first place to consult when a student wishes to have access to his/her student file. For some documents which are not uploaded onto the Portal, the student must present him/herself at the appropriate office during regular working hours and arrange a convenient time to view the file. Copies of documents may be requested.

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 18 of 22

The files of applicants who were accepted but did not register, and of those who were not admitted, are retained for two years by the Admissions Office.

### Graduate student files

If the graduate student's application was rejected, the file will be retained for two years by the academic department to which the application was directed.

If the application was accepted but the student did not register in the program, the file will be retained for two years at Graduate Studies. If the application was accepted and the student was registered in the program, the file is transferred to the Registrar's office during the student's first semester in attendance, as soon as all necessary documents have been received.

All students files for all graduates of undergraduate or graduate programs at Concordia are retained by the Registrar for eighty (80) years following the student's last attendance.

## PART 4

### Academic Recommendations

Academic recommendations are released to the person concerned, but not to third parties, after a final decision is reached on the matter which was the subject of the opinion or recommendation. (Article 86.1 of the Act)

Access requests of this nature originate mostly from:

- Students who were denied admission into a graduate programme and who would like to see their application file;
- Graduate students who request to see letters of reference or recommendation in their file;
- Graduate students who participate in a competition for awards or scholarships and who wish to be informed of their ranking and/or the reasons why they were unsuccessful.

Most of these requests are fairly straightforward, and once it has been ascertained that a final decision has indeed been rendered, the student is given Access, generally within a week or ten days.

Questions and Answers

Q.: What does "final decision" mean? e.g. Could the candidates request to see the letters of reference at any stage of the process?

A.: The Act specifies (at Article 86.1 of the Act) "*its final decision*", and this wording should be construed quite literally to mean the decision taken at the end of the process and not interim decisions. If for example there is a 30 day delay to appeal a decision at the end of the process, then, the decision is considered final only at the end of that 30 day delay, provided that there has been no appeal of the decision in question.

Q.: Can the letters of reference remain confidential if they have been written with the assurance of confidentiality?

A.: No. These letters of reference cannot be considered confidential. In this regard, on the application forms used by the School of Graduate Studies for soliciting recommendations, there is a warning or caveat stating the following:

*"Referees are advised that recent amendments to Quebec's Act respecting Access permit students to have access to letters of reference about them. Such letters are therefore not confidential."*

However, as indicated above, while the letters of reference must, upon request, be released to the person concerned, under no circumstances may these letters be released to third parties without the consent of the person concerned.

Q.: Are there any cases where Access may be denied?

A.: Access cannot be denied, but care must be taken not to disclose any Personal Information about another person, to the requestor. In some cases, the name of the referee giving the recommendation may be concealed or removed.

This restriction only applies to referees who are faculty members of universities outside of Quebec and who have not been paid by the University to act as assessors.

Pursuant to a decision of CAI, in all cases where individuals received an honorarium (no matter how small or nominal) to conduct an assessment, the name of the individual (even if

## GUIDELINES ON THE APPLICATION OF THE ACT RESPECTING ACCESS

---

Page 20 of 22

he or she is from outside of Quebec) cannot be concealed, i.e. the document must be made available in full.

On the other hand, if the letter of reference originates from a faculty member of Concordia University, or from another Quebec university, their name as members of the personnel of a public body is deemed to be public information under the Act, and as such cannot be concealed on the document.

Q.: What about a student requesting his or her ranking in an awards competition for a scholarship?

A.: In the case of a competition for a scholarship, if a student is requesting Access to the ranking profiles or charts listing comparative evaluations of candidates, these profiles should be considered as opinions, and should therefore be released, but in doing so, one must conceal the columns or whatever parts of the forms indicate the ranking of the other candidates, because this would reveal Personal Information about third parties. The student is entitled to have Access only to the Personal Information concerning him or her (for example, his or her own ranking in the competition).

### Conclusions

The University may refuse to disclose an opinion or a recommendation to the person concerned until a final decision has been made on the matter which is the subject of the opinion or recommendation.

Once a final decision has been reached on the matter in question, the University must disclose such opinions, letters of reference or recommendations, but only to the person concerned, upon his or her request, made either verbally or in writing. Such communication can be made either by permitting the requestor to examine his or her personal file during office hours or by sending copies of these documents.

When providing Access, the names of the authors of the letters of reference are not confidential if the authors are from a Quebec university, but must be concealed to protect their identity if they are from another university. However, in all cases where referees were paid, even a nominal fee, to conduct an assessment, then the document must be released in full.

## PART 5

### Conservation of Documents

All public bodies must create, maintain and destroy documentation in accordance with applicable rules and laws. Article 73 of the Act, states:

*"When the object for which personal information was collected has been achieved, the public body shall destroy the document, subject to the Archives Act or the Professional Code (chapter C-26)."*  
(and the University's rules on records retention)

The University's *Policy on Records Management and Archives* ([VPERSG-10](#)) along with the University's Retention Rules, set out the manner in which records are constituted, maintained and destroyed and the applicable delays during which the documents must be conserved, the whole in accordance with applicable laws and practices. The destruction of any document is performed after careful verification of the applicable rules and in close consultation with the Director of Records Management and University Archives or the Secretary-General. When a decision concerning an Access request is challenged before the CAI, until the CAI (and higher courts, as applicable) has rendered a final ruling on the matter, all of the documents requested (whether provided and excluded) must be preserved, regardless of the applicable Retention Rule schedule.

### Note concerning Labour Relations

In the case of an evaluation under the Collective Agreement for the purpose of promotion, tenure or renewal of a contract, whenever it becomes clear that the evaluation may be challenged in a grievance or that the person concerned might take action against the University, no documents can be destroyed, as the dossier must be complete for purposes of evidence.

Each Faculty and Department should verify its administrative practices to ensure that they are in conformity with the present Guidelines and the University's policies including the *Policy Concerning the Protection of Personal Information* ([VPERSG-9](#)). Each Faculty and each department is responsible for ensuring compliance with the Act. Should any legal guidance be required, the [Office of the General Counsel](#) should be contacted.