

Policy Title:	Access to Information and Protection of Privacy
Policy ID:	1-111
Manual Classification:	Section 1 – College Policies
Approved by:	Board of Governors
Revision Date(s):	May 2020 (sec. 5)
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Next Policy Review Date:	February 2023
Contacts for Policy Interpretation:	Policy and Privacy Coordinator Privacy Officer Manager of Operations - President's Office

1.0 - Policy Overview

Fleming College (the “**College**”) is committed to accountability and freedom of information, protection of Personal Information in its Custody or Control, providing individuals with a right of access to their Personal Information (subject to certain exceptions), and to transparency wherever possible.

This privacy policy (the “**Policy**”) describes how the College will make reasonable efforts to protect its Records, including Records containing Personal Information, and sets out the rules for how the College may collect, use, retain, disclose, and dispose of Personal Information.

2.0 - Purpose

The purpose of this Policy is to set out the responsibilities of the College regarding the protection of privacy and the right of access to information in accordance with the *Freedom of Information and Protection of Privacy Act* (“**FIPPA**”).

Where the College collects, uses, or discloses personal health information for the purposes of providing health care through any of its services, including Student Health Services, Counselling Services, and The Massage Clinic, the Procedures Related to Personal Health Information Policy and related procedures will address the responsibilities of the College regarding the protection of privacy and the right of access to information in accordance with the *Personal Health Information Protection Act, 2004* (“**PHIPA**”).

3.0 - Definitions and Acronyms

The following definitions and/or acronyms apply in this Policy:

College Community	Any person who studies, teaches, conducts research at or works at, or under, the auspices of the College and includes without limitation, employees or contractors; appointees (including volunteer board members); students; visitors; and any other person while they are acting on behalf of, or at the request of the College.
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Custody or Control 'Custody or Control' is a method of determining responsibility for the protection and provision of a record. It is determined on a case-by-case basis and typically is resolved by considering the following 4 questions:

- Did an officer or employee of the institution create the record?
- Does the content of the record relate to the institution's mandate and functions?
- Does the institution have a right to possession of the record?
- Does the institution have the authority to regulate the record's content, use and disposal?

Affirmative answers to some or all of the above questions typically constitute Custody or Control. Whether the College has custody or control of a Record must be interpreted and applied in congruence with the Information and Privacy Commissioner of Ontario's principle-based framework.

Department Head(s) The most senior level administrator(s) within a College department or division.

Employee Full-time, part-time and contract faculty, full-time and part-time support staff, student employees, and administrators of the College.

Personal information As defined under FIPPA, personal information means recorded information about an identifiable individual, including:

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (c) any identifying number, symbol or other particular assigned to the individual;
- (d) the address, telephone number, fingerprints or blood type of the individual;
- (e) the personal opinions or views of the individual except where they relate to another individual;
- (f) correspondence sent to the College by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the individual; and,

- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Personal information does not include:

- the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity;
- information about an individual who has been dead for more than thirty years; and,
- records of graduation that are otherwise publicly disclosed.

Record

As defined under FIPPA, a record means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes:

- correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy of such material; and,
- subject to FIPPA regulations, any record that is capable of being produced from a machine readable record under the control of the College by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the College.

3.0 - Scope

This Policy applies to all members of the College Community who have access to Records under the Control or Custody of the College, including, but not limited to:

- Employees;
- Former employees;
- Volunteers;
- Students; and
- Third-party contractors.

This Policy applies to all Records of Personal Information regardless of medium, in the Custody or Control of the College. Certain Records are excluded, subject to limitations found within FIPPA (s. 12 - 22). More information about these exceptions can be found on the [Information and Privacy Commissioner of Ontario Website](#).

This Policy must be interpreted and applied in compliance with the College's obligations under all collective agreements. Nothing in this Policy must be interpreted as limiting or amending the provisions of any collective agreement. To the extent that this Policy may conflict with the College's obligations under any collective agreement, the collective agreement prevails provided that its provisions do not conflict with FIPPA or PHIPA.

With respect to personal health information, as defined under PHIPA, that is collected, used, or disclosed by the College, the College's Personal Health Information Policies and applicable Operating Procedures apply.

4.0 - General Principles

4.1 - Overview

- a) The College is committed to providing a right of access to information under its Custody or Control in accordance with the principles that information should be available to the public, and necessary exemptions from the right of access should be limited and specific.
- b) The College is also committed to protecting the privacy of individuals with respect to Personal Information about themselves held by the College and to provide individuals with a right of access to that information.
- c) All collection, use, disclosure, retention, and disposal of Records containing Personal Information, and all requests for access to the College's Records will be handled in accordance with this Policy and affiliated Operating Procedures.
- d) Any collection, use, disclosure, retention, and disposal of Records containing Personal Health Information will be handled in a manner that is consistent with FIPPA and PHIPA. More information can be found in the Procedures Related to Personal Health Information Policy.

4.2 - Access to Personal Information

- a) The College will provide access to Records in its Custody or Control in accordance with this Policy, unless the Record or part of the Record falls within one of the exemptions under FIPPA, or the College is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.
- b) All requests for access to College Records will be processed in accordance with the Access to and Correction of Personal Information Procedure.

4.3 - Collection

- a) The College will only collect Personal Information where the collection is necessary for the proper administration of the College or is otherwise permitted or required by law.
- b) All collection of Personal Information will be done in accordance with the Collection of Personal Information Procedure.

4.4 - Use

- a) The College will only use Personal Information:
 - where the person to whom the information relates has consented to the use of that information in particular for the purpose for which it was obtained or compiled or for a consistent purpose;
 - where the information is in the College's alumni records, for the purpose of the College's fundraising activities, if the Personal Information is reasonably necessary for the fundraising activities; and,

- for any other purpose permitted by law.
- b) All use of Personal Information will comply with the Use and Disclosure of Personal Information Procedure.

4.5 - Disclosure

- a) The College will not disclose Personal Information to third parties except as permitted or required by law.
- b) Any disclosure of Personal Information will comply with the Use and Disclosure of Personal Information Procedure.

4.6 - Retention and Disposal

- a) The College will retain Records containing Personal Information as permitted or required by law.
- b) When the College disposes of Personal Information, it will ensure that all reasonable steps are taken to protect the security and confidentiality of the information being destroyed.
- c) All disposal or destruction of Personal Information will follow the Use and Disclosure of Personal Information Procedure.

4.7 - Correction

- a) The College will process requests for correction to an individual's Personal Information where the individual believes that there is an error or omission.
- b) All correction requests will be processed in accordance with the Access to and Correction of Personal Information Procedure.

4.8 - Accountability

- a) The College will inform individuals who make a request related to this Policy of their right to appeal any decision of the College with respect to their request to the Information and Privacy Commissioner of Ontario.
- b) The College will provide training to Department Head(s) who in turn will provide training and/or disseminate information to Employees, volunteers, students, and third-party contractors within their respective department(s) to ensure compliance with this Policy.
- c) Any suspected or confirmed breaches of privacy must be immediately reported in accordance with the Privacy Breach Procedure.
- d) The College will review this Policy every three years, or immediately in the event of amendments to the *Freedom of Information and Protection of Privacy Act*.
- e) The College will report annually to the Information Privacy Commissioner of Ontario on its processing of access requests and will make such reports available publicly.
- f) Individuals who fail to adhere to this Policy may be subject to disciplinary action by the College.

5.0 - Service System Manager (SSM) / Employment Ontario Conditions

Further to the College's responsibilities pertaining to the protection of privacy and the right of access to information in accordance with the *Freedom of Information and Protection of Privacy Act* ("FIPPA") the College will treat Ministry provided client-level data with the protections that the Ministry requires, and in accordance with the following conditions:

- a) The College will treat the data as personal information and in accordance with standard protections and provisions required for personal information;
- b) the College agrees to not attempt to re-identify any individual; and,
- c) the College will treat the information consistently and in accordance with any privacy policy changes that the Ministry requires, even if the College's *Access to Information and Protection of Privacy* policy has not been changed.

6.0 - Related Documents

- Access to and Correction of Personal Information Procedure
- Collection of Personal Information Procedure
- Use and Disclosure of Personal Information Procedure
- FIPPA Request Form
- Privacy Breach Procedure
- Information Practices Related to Personal Health Information Policy
- FIPPA - *Freedom of Information and Protection of Privacy Act* R.S.O. 1990 c. F. 31
<https://www.ontario.ca/laws/statute/90f31>

History of Amendments/Reviews

- February 2020: #1-111 Access to Information and Protection of Privacy Policy replaces former College Privacy Procedure (est. March 2008). Approved by the Executive Committee of the Board of Governors.
- March 25, 2020 approved by Fleming College's Board of Governors.
- May 2020, addition of section 5.0 Service System Manager (SSM) / Employment Ontario Conditions as per Ministry requirement.
- May 5, 2020, addition of section 5.0 Service System Manager (SSM) / Employment Ontario Conditions as per Ministry requirement approved by the Executive Committee of the Board of Governors.