

FIPPA GUIDE

The purpose of this guide is to provide information and tips to employees of Laurentian University, as well as the general public, with respect to the *Freedom of Information and Protection of Privacy Act* (FIPPA) of Ontario. This guide is not intended as legal advice. Please contact Laurentian University's Information and Privacy Office (IPO) if you have any questions.

TABLE OF CONTENTS

INTRODUCTION	2
About FIPPA	
About the Information and Privacy Commissioner/Ontario (IPC)	
About the Ministry of Government Services/Ontario (MGS)	
DEFINITIONS	3
What is a Record?	
Personal Information (PI)	
INFORMATION: ACCESS AND REQUESTS	4-5
Right of Access to information	
Exclusions	
Exemptions	
How to submit a request for information	
How to submit a formal request for information under FIPPA	
PROTECTION OF PRIVACY	5
COLLECTION OF PI	5-7
Authority to collect PI	
Manner of collection of PI	
Use of PI/Notice of collection	
Notice of Collection Checklist	
DISCLOSURE OF PI WITHIN THE UNIVERSITY	7
DISCLOSURE OF PI OUTSIDE THE UNIVERSITY	7-8
FIPPA PROCEDURES AND FORMS	8-10
How to handle a request for information (for employees)	
Instructions for receiving requests for PI by phone (for employees)	
Instructions for receiving third party requests for PI by phone (for employees)	
Forms	
RETENTION AND DISPOSAL OF PI	10
PRIVACY BREACH	10-11
Instructions if you suspect a breach of PI	
Instructions (for employees)	
TIPS AND BEST PRACTICES	11
FIPPA Faux-Pas notices	
CONTACT THE INFORMATION AND PRIVACY COORDINATOR	12

INTRODUCTION

About FIPPA

Amendments to FIPPA made Ontario's universities subject to FIPPA effective June 10, 2006. FIPPA has two purposes:

- to provide access to information under the custody and control of universities
- to protect the privacy of individuals with respect to personal information about themselves held by universities

FIPPA applies to any **records** held by government organizations (including universities) which are in their **custody and control**. The Information and Privacy Commissioner of Ontario (IPC) defines custody (of a record) as "the keeping, care, watch, preservation or security of the record for a legitimate business purpose," and control as "the power or authority to make a decision about the use or disclosure of [a] record." Please note that **employment-related records used or kept at home by a Laurentian employee are still considered to be under the custody and control of Laurentian University**.

To learn more about FIPPA, please visit:

[Freedom of Information and Protection of Privacy Act](#)

About the Information and Privacy Commissioner/Ontario (IPC)

Current Information and Privacy Commissioner/Ontario: Ann Cavoukian, PhD

The IPC acts independently of government to uphold and promote open government and the protection of personal privacy. The IPC has a number of roles with respect to FIPPA. In general terms, the Commissioner's mandate is to:

- independently review the decision and practices of government organizations concerning access and privacy;
- resolve access to information appeals and complaints when government organizations refuse to grant access to information;
- investigate privacy complaints with respect to personal information held by government organizations;
- conduct research on access and privacy issues;
- comment on proposed government legislation and programs, and;
- educate the public about Ontario's access and privacy laws.

The IPC website contains useful information and resources, including findings with respect to disputes (called **orders**), which are subject to judicial review. Together the Practices, orders and court decisions provide some of the best keys to the interpretation of FIPPA. They are readily accessible at the following website:

[Information and Privacy Commissioner/Ontario](#)

About the Ministry of Government Services/Ontario (MGS)

The Access and Privacy Office of the MGS provides support to government organizations subject to FIPPA through practical help, training and advice. The office of the Chief Information and Privacy Officer supports MGS and assists the Minister in the exercise of statutory decision-making responsibilities under FIPPA. This office is also responsible for policy development in the areas of freedom of information and protection of privacy.

The Access and Privacy Office of the MGS provides some of the best practical help and advice for interpretation of and compliance with FIPPA. Please visit the MGS website for information and useful resources:

[Ministry of Government Services/Ontario](#)

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

DEFINITIONS

What is a Record?

A record is broadly defined as 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 thereof.

Documents such as **electronic mail, handwritten notes or other notations on records** are **included in this definition. Working copies and drafts of reports and letters are also** considered to be records.

There is no obligation to create a record in response to a request under FIPPA except in certain circumstances involving information maintained on a computer.

Personal Information (PI)

FIPPA contains particular requirements for the collection, use, protection, disclosure and retention of personal information (PI). FIPPA allows you the right to ask for your own PI and to request a correction of the record(s) containing your own PI.

What is PI? PI 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 if they relate to another individual;
- (f) correspondence sent to an institution 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 if it appears with other PI relating to the individual or where disclosure of the name would reveal other PI about the individual.

PI must be about an identifiable individual; however an individual's name need not be attached to the information to qualify as PI. A physical description or a photograph of a person attached to other PI about that person constitutes PI although no name is ever indicated. This individual is "identifiable" and all of the types of information described above are his/her PI.

Care should be taken to ensure that any disclosure of PI complies with the privacy protection provisions of FIPPA (see **Protection of Privacy** below for information regarding the disclosure of PI).

An individual's name on its own is not PI. To be PI within the meaning of FIPPA, the name must be associated with other PI such as a student number, enrolment in a particular course or lab section.

Student examinations and assignments fall under the definition of PI. These documents may include the student's name, identification number, the student's personal views and opinions, the professor's comments and evaluation, and the student's grade.

PI does not include the name, title, business address, e-mail address, telephone number or designation of an individual that identifies the individual in a work-related, business, professional or official capacity.

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

INFORMATION: ACCESS AND REQUESTS

Right of Access to information

Certain limitations on access to records exist in the form of exclusions, exemptions, or the determination that a request for information is frivolous or vexatious.

Exclusions

Records **excluded** from FIPPA include:

- Private donations to University Archives [s. 65(1)]
- Labour relations records and employment-related information [s.65 (1) (6)]
- Research and teaching materials [s. 65(1) (8.1)]
- Records not in the custody and control of the university [s. 69]

When a **record is excluded from FIPPA**, this technically means that FIPPA does not apply to the particular records or information. However, in terms of privacy protection, a good rule of thumb is to **treat all records as though they were governed by the privacy protection provisions of FIPPA.**

Exemptions

There are **specific exemptions** to the right of access to records, if the records contain or relate to:

- Personal information
- Closed meetings
- Solicitor-client records
- Economic and other interests of the university
- Third-party information
- Advice and recommendations
- Danger to health and safety
- Publicly-available documents
- Terrorism
- Law enforcement
- Relations with governments

How to submit a request for information

Before submitting a written request for information under FIPPA, contact the University department or unit that you believe holds the records to which you seek access. Discuss your request with that department/unit to determine if those records, or any part of the information in the records, can be disclosed. Records that contain PI, or information relating to a third party, may be subject to exemptions and are not disclosed routinely; a request for such records will be referred to the [Information and Privacy Coordinator](#) of the University.

How to submit a formal request for information under FIPPA

All requests must be in writing (please fill out the [Access/Correction Request Form](#)) and accompanied by a request processing fee of five dollars (\$5.00). Please make cheques payable to “Laurentian University” and send your request and \$5.00 to the [Information and Privacy Coordinator](#).

When completing the form, please

- be clear and identify the specific records to which you seek access;
- specify dates or a time period for the records you are requesting;
- provide sufficient detail in your request to enable an experienced University employee, with a reasonable effort, to identify the records sought (pursuant to FIPPA);
- keep the scope of your request narrow and specific (a clearly defined request with a narrow scope will greatly assist the University in searching for records and responding to your request quickly);

and, (if applicable)

- identify the Personal Information Bank (PIB) and/or the location of the PI being requested, if known (if you are requesting access to or correction of your own personal information).

When your request is received the University will send you an Acknowledgement Letter, and will notify you of any clarifications required, time extensions, or fees that may apply. The University may charge the requester set fees associated with the search and processing of records as regulated under FIPPA.

Records to which exemptions may apply will be formally reviewed by the Information and Privacy Coordinator in accordance with “Part II –Exemptions” of FIPPA.

Once the Information and Privacy Coordinator has completed a formal review of the records, an Access Review Recommendation is submitted for approval to the appropriate decision-maker in accordance with the University’s FIPPA Delegation of Authority.

Records to which exemptions apply may be withheld entirely or be “severed” (i.e. portions blacked-out). A Decision Letter will explain the exemptions applied and give reasons. If you request access to records containing PI about yourself, the University may ask you to present yourself in person to the appropriate department with one piece of picture ID before the records are disclosed to you.

If you are not satisfied with the University’s access decision and/or disclosure of records you have thirty (30) days from the date of the University’s Decision Letter to appeal that decision to the Information and Privacy Commissioner/Ontario.

Click on the link to view or print Laurentian University’s [Access/Correction Request Form](#).

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

PROTECTION OF PRIVACY

Part III of FIPPA establishes rules that govern the collection, retention, use, disclosure, security, and disposal of PI held by government organizations. These rules are based on two key principles:

- that an individual has the right to control his or her own PI; and
- that the privacy rules governing the collection, use, disclosure, retention and disposal of PI are necessary.

[Back to TABLE OF CONTENTS](#)

COLLECTION OF PI (FIPPA SECTIONS 38 and 39)

The University “collects” PI when it gathers, acquires, records, or obtains PI from any source and by any means.

The privacy provisions dealing with the collection of PI apply to both recorded and non-recorded PI (that is, to PI which is collected verbally).

PI is collected when the University or someone on behalf of the University acquires the information directly from an individual or invites an individual or others to send PI to the University.

Authority to collect PI

Section 38(2) of FIPPA sets out the conditions under which PI may be collected; that is, one cannot **ask for, gather, compile and store PI** unless the collection of PI is:

- expressly authorized by a statute.; **or**
- used for the purposes of law enforcement; **or**
- **necessary** for the proper administration of a **lawfully authorized** activity;

and

- a notice is provided to the individual to whom the information relates which sets out specific details about the collection (see Notice of Collection below).

For example:

It is necessary to the proper administration of a lawfully authorized activity for the library staff to request and collect student I.D. cards which contain the student numbers and photographs of students. This information is necessary in order to provide the students with access to resources and services and to trace individuals who have outstanding accounts.

Manner of collection of PI

Section 39 (1) deals with the **manner of collection**. It requires that PI be collected **directly from** the individual to whom it relates, unless certain circumstances (described in subsections (a) through (h)) permit an indirect collection; that is, from a source other than the individual to whom the information relates. For example:

- the individual authorizes another manner of collection (a record should be kept with the date and the details of the authorization);
- the information is collected for the purpose of determining suitability for an honour or award to recognize outstanding achievement or distinguished service;
- the information is collected for the purpose of law enforcement.

Use of PI/Notice of Collection

Pursuant to section 39 (2) the University must inform individuals **whenever PI is collected** either directly from the person about whom the information relates or indirectly from another source. A Notice of Collection must be provided which specifies how the University intends to use the PI that is collected.

The notice to the individual **must** state:

- the legal authority for the collection (see above Authority to collect PI);
- the principal purpose(s) for which the PI will be used;
- the title, business address and telephone number of an official of the University who can answer the individual's questions about the collection.

Where the PI is collected directly from the individual, notice should be given to the individual at the time of the collection. Where the PI is collected on a form, the notice should be provided on the form itself.

Please be aware that Laurentian University's General Notice of Collection provides notice to students and employees about the classes or types of information the University is **most likely to collect**, and some of the **most likely reasons (purposes) for that collection**. **The General Notice of Collection may not provide adequate notice for specific departmental collection, use and disclosure of PI**. Employees involved in any collection of personal information **must provide a notice of collection in any forms, letters or other processes (e.g. verbally) by which PI is collected**. If you require information or assistance to prepare a Notice of Collection, please contact the Information and Privacy Office (IPO) of the University. To view the University's General Notice of Collection, click [here](#).

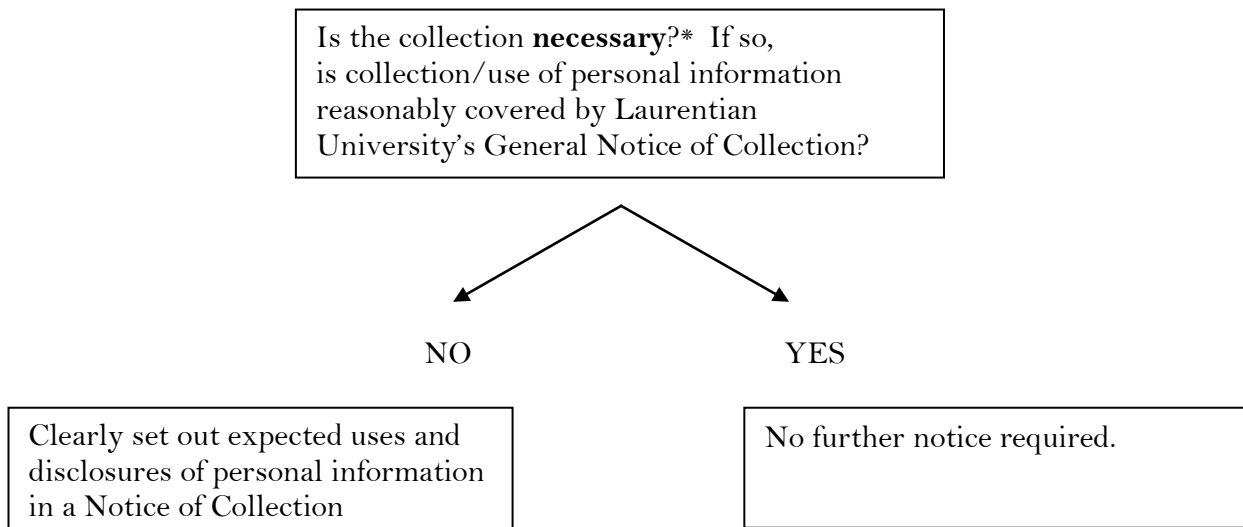
Alternative ways of providing collection notices could include:

- notifying the public through advertisements in the press (e.g., where a public advertisement solicits the collection);
- orally informing the individual in the course of an in-person or telephone interview (and noting this in the individual's file); or
- including the notice in correspondence or as an insert with other mailed material.

In general, the University is only permitted to use PI if the individual consents to the use, for the purpose for which it was obtained or compiled (as described in a Notice of Collection), or for a consistent purpose.

The University must take reasonable steps to ensure that PI is not used unless it is accurate and up to date.

Notice of Collection Checklist



***No person shall collect personal information** on behalf of an institution **unless the collection is** expressly authorized by statute, used for the purposes of law enforcement or **necessary to the proper administration of a lawfully authorized activity** (e.g. employee of the institution who **needs** the information in the performance of his/her duties). (Section 38 (2) of FIPPA.)

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

DISCLOSURE OF PI WITHIN THE UNIVERSITY

Under section 42 (1) (d) of FIPPA, if the University/Department has provided a Notice of Collection, disclosure to an officer, employee, consultant or agent of the University is authorized if:

- the individual needs the information in the performance of his/her duties; **and**
- the disclosure is necessary for University-approved operations and activities.

The head of the department should determine which employees need to have access to particular information in the performance of their duties, and take steps to ensure that access is limited to those persons.

[Back to TABLE OF CONTENTS](#)

DISCLOSURE OF PI OUTSIDE THE UNIVERSITY

The University is only permitted to disclose the PI that it collects in accordance with section 42 of FIPPA. Some of the circumstances under which institutions are permitted to disclose PI include:

- where the person to whom the information relates consents to the particular disclosure;
- for the purpose for which the PI was obtained or compiled (under a Notice of Collection) or for a consistent purpose;
- for the purpose of complying with another *Act*;
- for law enforcement purposes*;
- in compelling circumstances affecting the health or safety of an individual;

- in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- to the Information and Privacy Commissioner of Ontario.

Educational institutions may also disclose PI in its alumni records for fundraising purposes under specific circumstances outlined in sub-sections 42 (1), (2) and (3) of FIPPA.

This is NOT a complete list; please see FIPPA section 42 or consult with the IPO.

***All requests for information from law enforcement officers should be immediately directed to the [Information and Privacy Coordinator](#).**

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

FIPPA PROCEDURES AND FORMS

FIPPA recognizes that an institution should have basic standards for protecting PI in place. The privacy provisions of the legislation require institutions to use appropriate practices and procedures for collecting, storing, using, disclosing and ultimately disposing of PI.

Procedures

How to handle a request for information (for employees)

1. Formal request under FIPPA

- Formal requests are requests for access to information under FIPPA. These FIPPA requests are usually on a prescribed form (see Laurentian's [Access/Correction Request Form](#)) and should be accompanied by a \$5.00 fee.
- **A FIPPA request received anywhere on campus must be immediately directed to the [Information and Privacy Coordinator](#). There are specific statutory deadlines** that must be met when rendering a decision (30 days), and a great deal of work is often required both by the University's IPO and the affected department(s) in order to locate, retrieve and examine records. Since **the compliance rates (length of time taken to respond)** of all Ontario universities are **published yearly for public consumption**, it is very important to ensure that Laurentian University meets these deadlines in a timely manner.

2. Interdepartmental requests for PI

All requests for PI received by your department should be documented. For requests for PI from other Laurentian employees, your department may consider the development of a form to be filled out, indicating

- why the PI is needed;
- how the PI will be used and whether it will be disclosed;
- how the PI will be secured against unauthorized access; and
- how the PI will eventually be disposed of securely (retained or destroyed, as per departmental needs and FIPPA regulations).

Any requests for PI received by your department should go immediately to the **designated FIPPA Contact**. If you have not already done so, **please identify this person to the University's Information and Privacy Office (IPO)**.

The FIPPA Contact should assess each information request, in order to determine whether Laurentian is authorized to provide the personal information requested.

Two criteria must be met before PI can be disclosed interdepartmentally:

1. At the time of the collection of the PI being requested, **the person concerned had**

reasonable expectation that his/her PI would be used and disclosed interdepartmentally (i.e. adequate notice of collection (NOC); the NOC should either name the specific departments or make it clear that the PI will be used and disclosed interdepartmentally as required)

2. **Does the employee requesting the PI need this information in the performance of his/her duties? How much detail does the employee require?**

If your department receives a request for PI for records not created or held by your department, please forward this request immediately to the IPO.

3. **Informal requests**

Informal requests are not made under FIPPA, but they are requests for personal information, received from students, or any person outside the University (e.g. parents, law enforcement officers, other institutions, visitors, contractors, media and other third parties).

Any request received by your department should go immediately to the designated FIPPA Contact and should be assessed to determine if the disclosure of the PI is permitted under FIPPA or by the University (if FIPPA is not applicable).

Please note that some personal information is not routinely disclosed by the University. For instance, information relating to a third party (individual or company) may be confidential and/or subject to exemptions (please see sections regarding exclusions and exemptions). **The FIPPA Contact should consult the [Information and Privacy Coordinator](#) immediately if at all uncertain about whether or not the requested information can be disclosed.**

Where FIPPA applies to the PI being requested, disclosure is permitted if you have been provided with the **prior written consent of the individual to whom the PI relates**, and the Consent authorizes release of the PI in question to the specifically named third party (a form is currently under development).

Any informal requests should be well-documented and have sufficient information about the information requested.

Remember that informal requests dealt with by your department may contain PI relating to the requester (e.g. name and personal contact information), and should therefore be handled with the same care as other records containing PI.

**Instructions for receiving requests for PI by phone (for employees)
(student callers requesting their own PI)**

The following steps should always be taken by the telephone operator in order to verify the identity of the caller before giving out PI over the phone. We recommend that all details of **the phone call**, including delivery of an oral notice of collection, be documented and a copy kept in the student's file.

The first thing the telephone operator should do is provide the student with an **oral notice of collection**. In other words, the student must be informed that the operator will be asking a series of questions in order to verify his/her identity, and that the PI he/she provides during the phone call will be used to verify his/her identity and consequently assist the operator to complete the student's request. The caller should also be advised to whom he/she can pose any questions about this collection of PI (title and contact information of a designated person in your department).

Once the oral notice of collection has been given, the caller should provide his/her full name, current local address, student number and birth date. Because this information can be relatively easy to come by, callers should also be asked a series of questions regarding their enrollment, such as **three** of the following:

- Do you attend main campus or an affiliate?
- Are you full-time or part-time?
- Are you enrolled in a major/minor/honours specialization?

- Did you take any courses during the last spring/summer term? If so, name one.
- Are you taking any online (distance) study courses?
- What was your grade in (ask them for their final grade in a recently completed course)?

Only release information if you are **completely satisfied** of the caller's identity. If at all uncertain, please request that the caller appear in person if possible, or submit a written request for the desired information (you may direct the caller to the University's [Access/Correction Request Form](#)).

Please be aware that **you are not allowed to ask a student for his/her Social Insurance Number to confirm identity**; however, in certain cases, it is acceptable to ask a student for the **last three digits of their SIN**.

Instructions for receiving third party requests for PI by phone (for employees)

Sometimes a person will call or e-mail asking to confirm if an individual attends the University as a student or works at the University, and wants to know what his/her contact information is (the person contacting the University may claim to be representing a bank, an employer or parent/guardian, or something similar). Unless certain circumstances apply (see section 42 of FIPPA) regarding disclosure of PI, a good rule of thumb is to **advise the person requesting information that IF the individual about whom he/she is asking does in fact attend the University or have a position at the University, you are happy to forward the message to that individual.**

As previously stated, remember that **all requests for information from law enforcement officers should be immediately directed to the [Information and Privacy Coordinator](#).**

Forms

The following forms have been created by the IPO to date:

[Access/Correction Request Form](#)

Use this form for submission of **all formal requests under FIPPA for access to information** (including access to or correction of your own personal information) in the custody and control of Laurentian University.

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

RETENTION AND DISPOSAL OF PI

Fair information practices suggest that PI should only be retained for as long as necessary for the fulfilment of the purposes for which it is collected, but when information is used to make a decision about someone, it should be retained long enough for the individual to be able to access it, and appeal any denial of access. When PI is no longer needed to fulfill those identified purposes, it should be destroyed, disposed of **according to established guidelines** (usually shredding).

Pursuant to a regulation made under FIPPA, a record containing PI must be retained for a minimum period of one year from the date of its last use.

Receipt of any **unsolicited PI that is not used in any way** can be **destroyed (shredded) immediately (or securely locked in a disposal unit while awaiting destruction by shredding), provided you are authorized to do so** (please consult with your director or department head).

[Back to TABLE OF CONTENTS](#)

PRIVACY BREACH

Instructions if you suspect a breach of PI

A breach of privacy is any unauthorized disclosure of or access to PI. If you suspect a breach of privacy has

taken place, please contact Laurentian University's [Information and Privacy Coordinator](#) **immediately**:

Please identify yourself and provide the Coordinator with as many details as possible regarding the breach, such as:

- who is involved/affected by the breach (names, numbers of people, etc.)
- what kind of PI was released or accessed (name, address, birth date, Social Insurance Number, etc.)
- in what form the PI was released or accessed (paper records, electronic records, e-mail, telephone conversation, in-person conversation, etc.)
- when the breach occurred (date, time, etc.)
- when the breach was discovered
- who discovered the breach

The more details you are able to provide, the better equipped the Coordinator will be to investigate and resolve the matter.

Instructions (for employees)

If you are notified of a breach of privacy or suspect a breach of privacy has taken place, please report your concerns to your department head. The concerns must be reported to the University's [Information and Privacy Coordinator](#) **immediately**. You will be asked to provide as many details as possible regarding the breach, including:

- who is involved/affected by the breach (names, numbers of people, programs, departments, etc.)
- what kind of PI was released or accessed (name, address, student, employee or other identifying number, birth date, etc.)
- in what form the PI was released or accessed (paper records, electronic records, e-mail, telephone conversation, in-person conversation, etc.)
- the security measures in place to protect the information in question at the time of the breach (locks, alarm systems, encryptions, passwords, etc.)
- when the breach occurred (date, time, etc.)
- when the breach was discovered
- who discovered the breach
- the cause of the breach (was the breach accidental, the result of theft, or due to a system malfunction?)
- the scope of the breach (internal/external)
- any risk of future breaches (was this an isolated incident or an ongoing problem?)
- preliminary efforts made to contain the breach (recovery of information, computer system shut down, locks changed, etc.)

[Back to top of section](#)

[Back to TABLE OF CONTENTS](#)

TIPS AND BEST PRACTICES

FIPPA Faux-Pas Notices

The FIPPA Faux-Pas notices were created in order to provide the University community with some tips and/or suggestions for best practices with respect to FIPPA. To view the notices, please visit the [IPO website](#).

[Back to TABLE OF CONTENTS](#)

CONTACT THE INFORMATION AND PRIVACY COORDINATOR

Sara Kunto

University Secretary and General Counsel

Information and Privacy Coordinator

University Secretariat/Information and Privacy Office

Parker Building Room L-1130

Laurentian University

935 Ramsey Lake Road

Sudbury, ON P3E 2C6

(705) 675-1151

[Back to INFORMATION: ACCESS AND REQUESTS](#)

[Back to FIPPA PROCEDURES AND FORMS](#)

[Back to PRIVACY BREACH](#)

[Back to TABLE OF CONTENTS](#)