



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

INTERIM ORDER PO-2776-I

Appeal PA07-119

University of Ottawa



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NATURE OF THE APPEAL:

The University of Ottawa (the University) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for all records, written or electronic, that mention or refer to the requester or his activities in any way, for the time period from September 1, 2004 to the date the University received the request.

In correspondence with the University, the requester clarified his request, as follows:

I do not require student records on which my name appears. I do not require purely administrative documents/records that involve no administrative or executive decisions/judgments/interventions/influences. I do not require forms that simply record “rubber stamp” signatures or approvals of registrations/salaries/thesis-defences/student-progress-reports and the like.

As you may appreciate, I am interested in staff exchanges and executive communications (including all council and committee meetings and all ad hoc or informal meetings) and notes or files that do not simply relate to the purely mechanical tasks of running the university.

The University issued an interim access and fee estimate decision in accordance with section 57(3) of the *Act*, in which it estimated a total fee of \$28,488.20. The University requested a deposit of \$14,244.10 (50% of the total estimate) in order to resume processing the request, in accordance with section 7 of Regulation 460. The University also informed the requester that it is involved in ongoing litigation to determine the scope of its control over certain documents and that the outcome of the litigation may result in an increase in the fee estimate.

The requester, now the appellant, appealed the University’s fee estimate decision.

During mediation, the University issued a more detailed fee estimate in the amount of \$28,374.00, which eliminated the estimated cost to search for the appellant’s own personal information. Also during mediation, the appellant claimed that the University’s decision was inadequate and that the University “attempted to incorrectly reframe the scope of [his] request”. As a result, the adequacy of the University’s decision and section 24 (scope of the request) were added as issues in this appeal. In addition, section 10(1) (custody or control) of the *Act* was added as an issue, based on the University’s claim that it may not have custody or control of certain responsive records. The appellant also informed the mediator that he will be seeking a fee waiver, once he has received an “adequate decision”. Therefore, the issue of fee waiver has been added to this appeal.

As mediation was not successful in resolving the issues in this appeal, the file was transferred to me to conduct an Inquiry. I sent a Notice of Inquiry, setting out the facts and issues in this appeal, to the University and the Association of Professors of the University of Ottawa (APUO), a party whose interests may be affected by disclosure of the information at issue in this appeal, initially. As the University was in the midst of an arbitration proceeding with the APUO concerning which types of responsive records its members had custody or control over, I asked

the University to provide representations concerning the records it does consider it currently had custody or control over. I received representations from the University and the APUO. After receipt of the University's and the APUO's representations, I decided to proceed with the part of the appeal which addresses the records not subject to the arbitration proceedings only. Therefore, the portion of the appeal, which concerns the records that may be in the custody or control of the APUO members, is to be dealt with after the arbitration proceedings have concluded.

I sent a copy of the University's representations, along with a Notice of Inquiry, to the appellant and sought and received his representations. I received representations from the appellant. As I required clarification from the appellant as to the scope of his request at that time, I asked the appellant to clarify his request. The appellant's clarified request stated as follows:

(1) All (e.g., letter, fax, and email) communications about [the appellant] (other than messages sent by him), sent by or received by all professors (APUO members) at the University of Ottawa.

(2) All (e.g., letter, fax, and email) communications about [the appellant] (other than messages sent by him), sent by or received by all non-APUO member executive officers of the University of Ottawa. These executive officers include: the non-APUO member vice-deans of faculties, the deans of all faculties, the vice-presidents of the University, the Secretary of the University (including Legal Counsel's office), the President of the University, and the non-student and non-APUO member members of the Board of Governors of the University.

After receipt of the appellant's clarified request, I sent a copy of the appellant's representations and his clarified request to the University and sought reply representations. In particular, the University was asked to respond to part 2 of the clarified request. In response, the University issued a revised decision letter to the appellant, which included the following information:

Based on a review of a representative sample of the records and a discussion with the representative members of the Faculty of Science, Faculty of Arts, the Office of the President; the Office of the Vice-President Academic and Provost, the Office of the Secretary of the University and the Board of Governors, we estimate that there are approximately 7785 pages of records responsive to your request and the total fees to process your request will be approximately \$4,141.56...

As we have not yet completed the search and reviewed all of the records in detail, no final decision has been made regarding access.

Based on our discussions with appropriate staff members and our review of the representative sample of the records, we estimate that partial access to the records will be granted. Specifically, the exemptions in sections 18.1, 19, 21, 65(6) may apply to some of the responsive records or portions thereof.

I then sought and received representations from the appellant on the revised fee estimate contained in the University's new decision letter. I sent a copy of the appellant's representations to the University and received representations from the University in response.

This interim order concerns whether the University's revised fee estimate in the amount of \$4,141.56 should be upheld and, if upheld, whether this fee estimate should be waived.

DISCUSSION:

FEES

I will first determine whether the fee estimate of \$4,141.56 should be upheld.

Where the fee exceeds \$25, an institution must provide the requester with a fee estimate.

Where the fee is \$100 or more, the fee estimate may be based on either

- the actual work done by the institution to respond to the request, or
- a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.

[MO-1699]

The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access [Orders P-81, MO-1367, MO-1479, MO-1614, MO-1699].

The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees [Order MO-1520-I].

In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated [Order P-81, MO-1614].

This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 460, as set out below.

Section 57(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;

- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

More specific provisions regarding fees are found in sections 6, 6.1, 7 and 9 of Regulation 460. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For records provided on CD-ROMs, \$10 for each CD-ROM.
- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- 5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
- 6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

6.1 The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to personal information about the individual making the request for access:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For records provided on CD-ROMs, \$10 for each CD-ROM.

3. For developing a computer program or other method of producing the personal information requested from machine readable record, \$15 for each 15 minutes spent by any person.
4. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the personal information requested if those costs are specified in an invoice that the institution has received.

7. (1) If a head gives a person an estimate of an amount payable under the Act and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

(2) A head shall refund any amount paid under Subsection (1) that is subsequently waived.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

The University provided the following breakdown to the appellant concerning the \$4,141.56 fee estimate:

Faculty of Science:

Search: 15 hours x \$30 = \$ 450.00
Less 25% personal information = **\$337.50**

Preparation: 66.5 hours x \$30 = \$1995.00
Approximately 40 % of records will have severances - possibly
2000 pages @ 2 minutes per page = 4000 mins
Less 25 % personal information = **\$1,496.25**

Photocopying: 5000 pages X 0.20 = **\$1,000.00**

Total: **\$2,833.75**

Faculty of Arts:

Search: 0.5 hour X \$30 = \$15
less 25% personal information = **\$11.25**

Preparation: 0.3 hour X \$30 = \$ 9.00
approximately 20% of records will have severances-possibly 9
pages @ 2 minutes per page = 18 mins
Less 25% personal information = **\$6.75**

Photocopying: 47 X 0.20= **\$9.40**

Total: **\$27.40**

Other Faculties:

Search: 5 hours X \$30 = \$150
less 25% personal information = **\$112.25**
Preparation: 3 hours X \$30 = \$90.00
approximately 20% of records will have severances-possibly 94
pages @ 2 minutes per page = 188 mins
Less 25% personal information = **\$67.50**
Photocopying: 470 X 0.20= **\$94.00**

Total: **\$273.75**

Office of the President:

Search : 4 hours X \$30= \$120
Less 25% personal information = **\$90.00**
Preparation: 13.33 hours X \$ 30= \$399.90
approximately 20% of records will have severances-possibly 400
pages @ 2 minutes per page = 800 mins
Less 25% personal information = **\$299.93**
Photocopying: 2000 X \$0.20= **\$400.00**

Total: **\$789.93**

Offices of the Vice-Presidents:

Search: 4 hours X \$30 = \$120
Less 25% personal information = **\$90.00**
Preparation: 1.25 hours X \$30 = \$37.50 approximately 20% of records will
have severances-possibly 37.6 pages @ 2 minutes per page = 75.2
mins
Less 25% personal information = **\$28.13**
Photocopying: 188 X 0.20 = **\$37.60**

Total: **\$155.73**

Office of the Secretary of the University and Legal Counsel:

Search: 2 hours X \$30 = \$60
Less 25% personal information = **\$45.00**
Photocopying: 80 X 0.20 = **\$16.00**

Total: **\$61.00**

Board of Governors:

No documents

In its revised decision letter, the University also states that:

As we have not yet completed the search and reviewed all of the records in detail, no final decision has been made regarding access.

Based on our discussions with appropriate staff members and our review of the representative sample of the records, we estimate that partial access to the records will be granted. Specifically, the exemptions in sections 18.1, 19, 21, 65(6) may apply to some of the responsive records or portions thereof.

The costs outlined above are in accordance with section 6 of Regulation 460 made under the *Act*. In accordance with section 7.1 of Regulation 460, where the fee estimate is \$100.00 or more, an institution may request a deposit equal to 50 per cent of the estimated fee before taking any further steps to process the request. Please forward a deposit in the amount of \$2,070.78 by cheque or money order, payable to the University of Ottawa.

The *Act* provides that all or part of the fee can be waived if, in our opinion, it is fair and equitable to do so, in certain circumstances. Enclosed please find copies of section 57(4) of the *Act* and section 8 of Regulation 460. You may be required to provide evidence in support of any fee waiver request. Please notify me as soon as possible if you wish to proceed with a request for a fee waiver.

As previously mentioned, the appellant was given an opportunity to provide representations in response to the University's revised fee estimate, wherein he submits that:

1. ...[T]he University's latest fee estimate decision of May 20, 2008, has an estimated percentage of the records that contain personal information of 25%, compared to its two previous decision letter estimates of only 3%. In further support for my concern that the University may have recast my request, its May 20th decision has 804.5 search hours fewer (at a cost saving value of \$24,135.00) than in its July 24, 2007 decision, without any explanation for this difference...

2. [The fee estimate] is deficient in critical areas that would "give the requester sufficient information to make an informed decision regarding whether to proceed with the request, and whether to accept or appeal the fee estimate" ...as follows:

(a) It does not provide "an estimate of the extent to which access is likely to be granted" or "the degree of disclosure (e.g., 10, 50, or 95 per cent of total records and/or the estimated number of pages or parts of pages to which access will be granted)" [Fees, Fee Estimates and Fee Waivers guidelines booklet for institutions, (<http://www.ipc.on.ca/images/Resources/fees.pdf>) dated October 2003]. Indeed, the University's letter of May 20th only states "we estimate that partial access to the records will be granted".

(b) The same guidelines require “to create a detailed breakdown of the calculation of each element of the estimated fee ... including: ... the degree of severing for parts of records (i.e., low, moderate, or extensive)...

This was not done. The University has not provided an estimate of the typical degree of severing required per severed document. (See point-c below.)

(c) The University has not recognized an essential characteristic of many (most) of the records in this case: Many of the records will be long email strings in which most of the pages will be an original long email sent by myself (e.g., as an open letter to all staff). The parts that are respondent to my request are all the additional exchanges (as comments on forwards and replies to forwards, etc.)... Therefore, severing costs cannot be calculated as “40% of records will have severances-possibly 2000 pages [out of 5000 pages] @ 2 minutes per page = 4000 mins”, as has been done in the University’s May 20th letter. The number of respondent records is not proportionally related to the number of respondent pages. The University has therefore made incorrect (and inflated) cost calculations...

3. The University’s fee estimate has dropped from \$28,374.00 to \$4,141.56 without the University providing an explanation for the changes. This corroborates my November 21, 2007, representations charge that the University was using the fee as a barrier to access. Without an explanation being provided by the University, and given the above (point-2c) evidence that a large fee overestimate persists, I submit that the University has and is continuing to use a high fee estimate as a barrier to access...

I submit that the new cost estimate is again a large over-estimate, that does not consider (1) a realistic measure of the percentage of records that contain personal information (no evidence or attempted justification for the University’s new figure of 25% has been given) or (2) the nature of the records as long email strings that mostly contain my original emails.

In reply, the University submits that:

...[the appellant’s] clarifications [of the request] significantly narrowed and refined the request. As expected, this had a big direct impact on the costs incurred for the search. The revised fee estimate issued in May reflected the clarifications received from the appellant in his December 3 communications. As a result of these clarifications, the search, preparation and numbers of relevant records was significantly reduced.

Analysis/Findings

As stated above, the appellant's request which is the subject of this order seeks:

All (e.g., letter, fax, and email) communications about [the appellant] (other than messages sent by him), sent by or received by all non-APUO member executive officers of the University of Ottawa. These executive officers include: the non-APUO member vice-deans of faculties, the deans of all faculties, the vice-presidents of the University, the Secretary of the University (including Legal Counsel's office), the President of the University, and the non-student and non-APUO member members of the Board of Governors of the University.

The University's fee estimate of \$4,141.56 is comprised of the following components:

Search fee: \$686.00

Preparation fee: \$1,898.56

Photocopies: \$1557.00

The appellant submits that the University has overestimated the fee estimate for three primary reasons, namely, that:

- the University has calculated that a larger percentage of the records will contain the appellant's personal information than the fee based on the appellant's request;
- the University has not provided an indication percentage wise of the amount of information that it will claim will be exempt and thereby severed from the records once disclosed; and,
- the fee for severing of the records is excessive because a large percentage of the responsive records will be emails from the appellant, which will not need to be severed.

I will deal with each of the appellant's points separately.

percentage of personal information

The appellant is concerned about the estimated amount of records that may contain his personal information. In the original request, the estimated percentage of personal information was 3%, whereas in the request as it now stands, the estimated percentage of personal information is 25%. The University cannot charge a search fee for manually search for a record that contains the personal information of the requester. In this case, the University has reduced the search fee by 25% to \$686.00.

The appellant's initial request was significantly broader than the request that is the subject of this interim order. In his original request he sought:

All documents, written or electronic, that mention me or refer to me or my activities in any way, sent to anyone or simply recorded, and originating from or received by the offices of any of the chairpersons of any of the departments in the Faculty of [name] or originating from or received by any of the offices of any of the deans of all faculties, including the Faculty of Graduate Studies, the Faculty of [name], and the Faculty of [name], or originating from or received by the offices of all the vice-presidents and of the President, or from or received by the office of the Secretary of the University and all the lower offices, including all offices of central and Faculty of [name] computer services and the office of the employer's Liaison Officer.

This should include the minutes of all committee and council meetings in the Faculty of [name], except for the Department Council meetings of [name of department]. It should include the minutes of all committee, council, and Executive meetings above the Faculty of [name].

This request is for the period from September 1, 2004 to the date that you send me the requested documents. The documents should include any exchanges with or between the upper administration and its representatives about the present request for information that go beyond a purely administrative nature.

I request all documents, written or electronic, that refer to me or my activities in any way that are held at or by the University of Ottawa. The areas of concern to me include: [approximately 20 separate and distinct topics].

My areas of concern include all communications between the VP Academic and my Dean concerning me or my activities in any way, and between my Dean and my Chair, between the University LO and members of the Executive and the Dean, including with the APUO, and between the President and VPs and their subordinates.

The previous request encompassed more records that would have not necessarily contained the personal information of the appellant. For example, in the original request the appellant sought disclosure of the minutes of committee and council meetings in a named faculty. By providing the appellant with a fee estimate that reduces this fee by 25% as compared to the previous amount of 3%, the University has reduced the amount of the fee estimate.

Based on my review of the University's fee estimate and the parties' representations, I find that the University's search fee of \$686.00, which was arrived at taking into account its estimate that 25% of the records will contain the personal information of the appellant, is reasonable.

percentage to be severed

The appellant is concerned that the University has not provided an indication percentage wise of the amount of information that it will claim will be exempt and thereby severed from the records. The University has estimated that there will be 7785 pages of responsive records.

The guideline referred to by the appellant in his representations recommends that an institution indicate in its decision letter the “degree of disclosure (e.g., 10, 50, or 95 per cent of total records and/or the estimated number of pages or parts of pages to which access will be granted)”.

The University’s preparation fee is estimated at \$1,898.56. In its fee estimate, the University has included the percentage of records that will require severance and therefore will not be disclosed. In particular, the University provided the following information in its fee estimate concerning the amount of severance:

Faculty of Science:

Preparation: 66.5 hours x \$30 = \$1995.00
Approximately 40 % of records will have severances - possibly
2000 pages @ 2 minutes per page = 4000 mins

Faculty of Arts:

Preparation: 0.3 hour X \$30 = \$9.00
approximately 20% of records will have severances-possibly 9
pages @ 2 minutes per page = 18 mins

Other Faculties:

Preparation: 3 hours X \$30 = \$90.00
approximately 20% of records will have severances-possibly 94
pages @ 2 minutes per page = 188 mins

Office of the President:

Preparation: 13.33 hours X \$ 30= \$399.90
approximately 20% of records will have severances-possibly 400
pages @ 2 minutes per page = 800 mins

Offices of the Vice-Presidents:

Preparation: 1.25 hours X \$30 = \$37.50
approximately 20% of records will have severances-possibly 37.6
pages @ 2 minutes per page = 75.2 mins

Based upon my review of the University’s fee estimate, I find that the University has indicated in its decision letter the degree of disclosure.

fee for severing records

The appellant further submits that the University, by not taking into account that many of the records are emails originating from the appellant, has overestimated the fee estimate for the preparation of the records contrary to section 57(1)(b) of the *Act*. This section includes time for severing a record [Order P-4].

Generally, this office has accepted that it takes two minutes to sever a page that requires multiple severances [Orders MO-1169, PO-1721, PO-1834, and PO-1990].

Section 57(1)(b) does not include time for

- deciding whether or not to claim an exemption [Order P-4, M-376, P-1536]
- identifying records requiring severing [MO-1380]
- identifying and preparing records requiring third party notice [MO-1380]
- packaging records for shipment [Order P-4]
- transporting records to the mailroom or arranging for courier service [Order P-4]
- time spent by a computer compiling and printing information [Order M-1083]
- assembling information and proofing data [Order M-1083]
- photocopying [Order P-184]
- preparing an index of records [P-741, P-1536]

The institution cannot charge a fee for preparing a record for disclosure.

As noted above, the University has indicated the percentage of each type of responsive record will be severed. Based on the nature and the scope of all of the University's representations, including its representations concerning the request as originally stated by the appellant, I find that the University is familiar with the type and nature of the responsive records. I find that the University's fee for preparation of the records is in accordance with the requirements of section 57(1)(b) of the *Act*.

Conclusion

As stated above, the purpose of a fee estimate is to provide the requester with sufficient information to make an informed decision on whether or not to pay the fee and pursue access to the requested records. In the current appeal, the University's fee estimate was based on the estimated work to be done to respond to the appellant's request.

The University provided the appellant with the search fee based on a representative sample of the records and the advice of employees from six different areas of the University, who are familiar with the type and contents of the responsive records.

Given that the University has placed appropriate reliance on the advice of expert employees in connection with this fee estimate, I am satisfied that its fee is justified based on the estimated cost to search the records to respond to the appellant's request.

I also find that the University's estimated fee to prepare the records for disclosure is reasonable.

The appellant has not disputed the University's estimated photocopy fee of \$1557.00. Regulation 460 provides that a fee of 20 cents per page shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record.

After having carefully considered the representations of both the University and the appellant, I find that the University has generally complied with the requirements of section 57(1) of the *Act* and section 6 of Regulation 460. It has provided a detailed breakdown of the total fee, and a detailed statement as to how the fee was calculated. I find that the search fee, the preparation fee and the photocopy fee charged by the University are in compliance with the fee provisions in the *Act* and Regulation 460. I further find that the University's fee estimate is reasonable.

Therefore, I uphold the University's search fee estimate of \$686.00, its preparation fee estimate of \$1,898.56 and its photocopy fee of \$1557.00, for a total fee estimate of \$4,141.56.

FEE WAIVER

I will now determine whether the \$4,141.56 fee as estimated by the University should be waived.

Section 57(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances. Section 8 of Regulation 460 sets out additional matters for a head to consider in deciding whether to waive a fee. Those provisions state:

57. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed by the regulations.

8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:

1. Whether the person requesting access to the record is given access to it.
2. If the amount of a payment would be \$5 or less, whether the amount of the payment is too small to justify requiring payment.

A requester must first ask the institution for a fee waiver, and provide detailed information to support the request, before this office will consider whether a fee waiver should be granted. This office may review the institution's decision to deny a request for a fee waiver, in whole or in part, and may uphold or modify the institution's decision [Orders M-914, P-474, P-1393, and PO-1953-F].

The institution or this office may decide that only a portion of the fee should be waived [Order MO-1243].

The appellant submits that:

...the fee calculated in the latter final decision letter be waived, given the University's attempts to use large fee estimates as barriers, and in the interest of the public good, since I will analyze the records in the context of the benefits to society of academic freedom and I will publish my results. The Canadian university is a societal watchdog, of everything from industrial safety to best practices to human health risks, whose independence arises from academic freedom that must, in turn, be aggressively defended.

Part 1: basis for fee waiver

Upon review of the appellant's representations, it appears that the appellant is seeking a fee waiver based on the provisions of section 57(4)(c) of the *Act*, namely, that dissemination of the records will benefit public health or safety

The following factors may be relevant in determining whether dissemination of a record will benefit public health or safety under section 57(4)(c):

- whether the subject matter of the record is a matter of public rather than private interest
- whether the subject matter of the record relates directly to a public health or safety issue

- whether the dissemination of the record would yield a public benefit by
 - (a) disclosing a public health or safety concern, or
 - (b) contributing meaningfully to the development of understanding of an important public health or safety issue
- the probability that the requester will disseminate the contents of the record

[Orders P-2, P-474, PO-1953-F, PO-1962]

This office has found that dissemination of the record will benefit public health or safety under section 57(4)(c) where, for example, the records relate to:

- compliance with air and water discharge standards [Order PO-1909]
- a proposed landfill site [Order M-408]
- a certificate of approval to discharge air emissions into the natural environment at a specified location [Order PO-1688]
- environmental concerns associated with the issue of extending cottage leases in provincial parks [Order PO-1953-I]
- safety of nuclear generating stations [Orders P-1190, PO-1805]
- quality of care and service at group homes [Order PO-1962]

The appellant seeks in his request letters, faxes, and emails about him. Based on the wording of the appellant's request, the records all concern the appellant. I find that the subject matter of the records is a matter of private rather than public interest. The appellant provided only general representations and has not provided representations as to how the subject matter of the responsive records actually relates directly to a public health or safety issue. Nor has he provided any evidence as to how dissemination of these records would yield a public benefit by either:

- (a) disclosing a public health or safety concern, or
- (b) contributing meaningfully to the development of understanding of an important public health or safety issue

Based upon my review of the appellant's representations, I find that the appellant has not provided a basis for a fee waiver. Therefore, there is no need for me to determine under part 2 of the test as to whether a fee waiver would be fair and equitable. Accordingly, I dismiss that part of the appellant's appeal that seeks a fee waiver.

ORDER:

1. I uphold the University's fee estimate of \$4,141.56.
2. I uphold the University's decision not to grant the appellant a fee waiver.
3. I remain seized of this appeal in order to deal with the outstanding issues arising from this appeal.

Original Signed by: _____

Diane Smith
Adjudicator

_____ April 20, 2009