

HOW TO ACCESS YOUR CONTRACT

It wasn't long ago that beverage exclusivity contracts did not exist in schools and on campuses. Prior to the 1990s, both Coke and Pepsi donated money to schools and universities with no strings attached. Since Coke's contract with the University of British Columbia in 1995, almost all universities in Canada have signed exclusive beverage contracts that give monopoly access to a student audience. These contracts are typically negotiated in secret with little to no input by the student body and wider campus community.

Over the years certain clauses and sections have been leaked to the public. This has exposed such controversial material as guaranteed compensation if the contract is broken, right to include logos on school/university property and team uniforms, and the extension of the contract (and loss of associated financial benefits) where quotas for beverages sold are not met. This leaked information has been used effectively by student activists in campaigns challenging these beverage giants.

Canada's freedom of information acts can be used to access beverage exclusivity contracts. Whether or not there is precedent to request a copy of a beverage exclusivity contract differs province to province. For example, Nick Dodds, a 13 year old public-school-student successfully used Ontario's Freedom of Information act to expose Pepsi Bottling Group's exclusive deal with the York Region District School Board. Students at UBC were able to successfully receive a copy of their contract through a freedom of information request, as was the Ryerson Students Association in Ontario.

Although schools and corporations are becoming more open to revealing these contracts given the growing pressure from students, keep an eye on the details and speak out where unfair or unnecessary clauses exist, they can be used in a bid to oust the contracts completely.

The Ontario branch of the Canadian Federation of Students has put together a comprehensive introduction, and explanation of how to use the recently updated act in Ontario. Please use it as a guide to approaching the process of submitting a freedom of information request in other provinces.

Introduction

New Ontario legislation establishes a mechanism to gain access to some information that was previously hidden from view. This document provides background on the Freedom of Information and Protection of Privacy Act (FIPPA) and instructions about how to best make

use of the rights it establishes. Given the harm that can be done to academic freedom and workers' rights by privatisation contracts, it is important for students' representatives to have a working knowledge of the FIPPA.

The Act

As a result of pressure from the Canadian Federation of Students and the Ontario Confederation of University Faculty Associations, the Freedom of Information and Protection of Privacy Act was amended to include universities as part of the 2005 Budget Measures Act, later coming into force on June 10, 2006.

Although many universities have operated with their own internal access to information policies, the FIPPA now sets out universal standards and provides those who wish to access information held by colleges or universities with the legal right to appeal decisions made at the local level to the Information and Privacy Commissioner of Ontario. The Commissioner has a number of powers, including the ability to order the release of records or the stoppage of certain personal information collection practices. Each college and university must have a privacy coordinator who is employed by the institution and serves as the first point of contact for requests under the FIPPA.

To make a formal request under the FIPPA, a specific process must be followed. Members who attended the 2006 Ontario Semi-Annual General Meeting received a briefing about the process from a Policy Advisor from the Ontario Ministry of Government Services. The following is a set of general guidelines compiled by the Ontario Executive Committee for your reference.

Step 1

Contact the appropriate department or office on campus that you believe is holding the record(s). Discuss your request with a staff member to determine if the record(s) exist and if the record(s) can be disclosed to you through regular institutional procedures. The institution may object to providing records, claiming that they contain confidential third party, or personal information or are otherwise subject to exemptions under the Act.

Step 2

If the department does not provide access to the record(s), submit your signed request in writing with the required fee, by either delivering it personally or mailing it to the Freedom of Information and Privacy Coordinator at your campus. A standard form should be available from each institution's Privacy Coordinator's websites or centrally from Ontario's Information and Privacy Commissioner (see link 1 below). Requests received by electronic mail are not acceptable. The processing of a request will not commence until the initial fee has been paid.

Step 3

When making a written request, be clear and identify the specific record(s) or personal information you wish to access. Also, specify dates or a time period for the record(s)/personal information you request. Keep the scope of your request narrow and specific. This will reduce the time required to assemble the files requested and cut down on

possible costs associated with fulfilling the request. Broad requests can cost thousands dollars in search hours.

Step **4**
Sufficient detail must be provided in your request so as to enable an employee of the institution to identify the record(s)/personal information sought. If you are unsure how to describe the record(s)/personal information, you may want to contact representatives of campus staff or faculty associations for help with formulating your request.

Step **5**
When your request is received, the institution should send you an acknowledgement letter and notify you of any time extensions or fees that may apply. Always keep a file of all documentation that is received in relation to the request. The information contained in this documentation is important for later stages of the process, including appeals.

Step **6**
Records to which exemptions may apply are sent by the appropriate department or office to a designated staff person or office of the institution, such as the Board of Governors Secretariat, for a formal review pursuant to “Part II – Exemptions” of the Act.

Step **7**
Once the designated office has completed the formal review of the records, an Access Review Recommendation is submitted for approval to the appropriate decision-maker in accordance with the PSE institution’s delegation of authority policy.

Step **8**
Records to which no exemptions apply are to be sent to you directly by the appropriate institutional department or office.

Step **9**
Records to which exemptions apply may be withheld entirely or be “severed” (i.e. supplied to you with portions blacked-out). A decision letter will attempt to explain in detail the exemptions applied and give reasons for their application. Consult the Information and Privacy Commissioner’s website for details on recent appeal decisions and the appeals process.

Step **10**
If you are not satisfied with the PSE institution’s disclosure of records or the schedule for continuing access, you have 30 days from the date of the decision letter to request a review by the office of the Information and Privacy Commissioner. The cost of applying for an appeal is \$25. Until this point the requestor will have been dealing solely with the PSE institution holding the record(s). It is recommended that you avail yourself of the appeal process, which is conducted with a much higher level of scrutiny. An appeal form can be retrieved from the website of the Office of the Information and Privacy Commissioner (see link 2 below).

Other Considerations

If possible, make requests to multiple sources. For example, the records you request may be held by both your institution and the Ministry of Training, Colleges and Universities. Requests to different Privacy Coordinators are often handled differently, potentially to the benefit to the requestor.

Links

<http://www.cfsontario.ca>

[1] Request for Information Form

<http://www.ipc.on.ca/docs/form-2e.pdf>

[2] Appeal Form

http://www.ipc.on.ca/userfiles/page_attachments/appfrm-e.pdf

[3] Office of the Information and Privacy Commissioner (Ontario)

<http://www.ipc.on.ca/>

[4] Ontario Ministry of Government Services (Access and Privacy Office)

<http://www.accessandprivacy.gov.on.ca/>

[5] Freedom of Information and Protection of Privacy Act (FIPPA)

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90f31_e.htm