**MINUTE TAKING TIPS**

The following tips have been developed by the Information and Privacy Office, so that minute takers will have an idea of considerations that become important if the minutes of a meeting become the subject to a FOIP access request.

**Section 24**

Section 24 of the Freedom of Information and Protection of Privacy Act (“**FOIP**”) is important to consider if the University receives a FOIP Access Request for access to minutes of a University meeting.

When University employees are having discussions about something sensitive, either with another University employee or with a third party, sections 24(1)(a) or (b) of the FOIP Act can sometimes apply.

If an employee or third party advisor creates a record containing advice, proposals, recommendations, analyses, or policy options to a University decision-maker, then it could be protected under s. 24(1)(a). Alternatively, a record that records a discussion among University employees may be protected under s. 24(1)(b) if it qualifies as consultations or deliberations involving officers or employees of a public body. The test for both is similar, essentially:

a) it must be sought or expected, or be part of the responsibility of a person by virtue of that person’s position;

b) it must be directed toward taking an action or making a decision; and

c) it must be made to someone (in the case of advice) or involving a person (in the case of consultations or deliberations) who can take or implement the action.

If the minutes of a meeting, or part of a meeting, meet this test, it is helpful to make that clear by using words such as these (or alternatively, by using appropriate headings):

**For Advice, Etc. Under Section 24(1)(a)**

PLEASE NOTE: this record contains advice, proposals, recommendations, analyses or policy options developed by (author – either individual, group, division, etc.) for (the decision-maker) in relation to (name of project or issue).

**For Consultation or Deliberations Under Section 24(1)(b) (this is more likely to apply to the minutes of a meeting)**

PLEASE NOTE: This record contains the substance of consultations of deliberations involving (name of group, committee, etc.) in relation to (name of project or issue).

**NOTE:** Sections 24(1)(a) and (b) are discretionary, and the Information and Privacy Office can never guarantee in advance that it will use its discretion in favour of withholding the record or information (that would be inconsistent with the principles of the FOIP Act). However, in appropriate circumstances, this wording can help to establish a claim to withhold information under these sections.

**Section 27**

Section 27 of FOIP allows the University to refuse to disclose information that is subject to any type of legal privilege.

If the minutes record the legal advice given by a lawyer, this should be made clear. It would be good to use a separate paragraph or section for this, rather than blending it into a paragraph with other parts of the conversation. If it is separate, it is much easier to black out the legal advice without disclosing anything about the topic the legal advice pertained to (this tip can apply to other types of confidential information as well). These words are helpful to use (or, again, an appropriate heading is helpful):

**Legal Advice**

Confidential and subject to solicitor/client privilege: “Lawyer X advised that…” or “lawyer X was asked for his/her legal advice about …”

**Other Records That Should Be Clearly Identified**

The following records should be clearly identified as such, as it may be possible to withhold access to the records described below if the University receives a FOIP request (as noted above, however, discretion must be exercised on a case by case basis):

• Drafts of motions, bylaws, or other legal instruments under consideration

• Proposals, recommendations, or policy options developed by or for the University

• Positions, plans, procedures, criteria or instruction developed for the purpose of contractual or other negotiations by or on behalf of the University or considerations relating to those negotiations

• The presentation of and use of any personal information that forms part of a decision-making process

• Plans relating to the management of personnel or the administration of the University that have not yet been implemented

• Information, including the proposed plans, policies or projects of a public body, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision

* The content of a formal research or audit report that in the opinion of the head of the public body is incomplete unless no progress has been made on the report for at least three years.

**Other General Minute Taking Tips**

- Minutes should generally tell the story, at a high level, of what topics were discussed, what action items were assigned to individuals at the meeting, what decisions were made, and what the main reasons for making the decisions were.

-Not all comments made during a brain storming session need to be included. Minute takers do not need to try to record everything that was said. Avoid including emotion, personal views, and unnecessary details.

- Avoid identifying the person who made a particular comment if possible.

- Appoint one person or unit as the record holder to hold a copy of the agenda, the official minutes, and a copy of any records considered at the meetings.

-It is a good practice for the record holder to send a note periodically to members of the group and anyone else copied on meeting invitations to destroy all written and emailed copies of any draft notes they made, or documents that were considered at the meeting. These can be deleted as “transitory records”, as the notes or the copies of records would not generally have long term, enduring value.