

Additional information re FOIP harassment complaint

██████████, the MacEwan Faculty Association Professional Resource Officer, inquired with Mike Gardener, the MacEwan FOIP coordinator, regarding the supposed FOIP breach.

Date: Thu, 22 Sep 2011 10:43
From: ██████████
To: ██████████
Subject: FOIP

Hi ██████████

I had a couple of questions regarding the FOIP issue referenced in Dr. Higgins' April 1, 2011 final letter of warning and suspension.

Question 1. What is the appropriate investigative procedure to determine if the FOIP legislation has been violated?

Question 2. What is the appeal process?

I called Mike Gardener, MacEwan University's FOIP Co-ordinator, who deals with FOIP issues and is an expert resource. Mr. Gardener did not have a clear recollection of your situation but agreed to help with my questions regarding the above referenced letter.

If a **formal complaint** is filed with the Office of the Information and Privacy Commissioner there is an appeal process that involves a review, eventually, if necessary, leading to judicial review for final resolution. See the attachment.

Your situation did not involve a formal complaint. (emphasis in original)

Your situation was not investigated by Mike Gardener, the MacEwan University FOIP coordinator. Mike provided advice based on the information provided by Dr. Higgins. Dr. Higgins letter of April 1, 2011 doesn't state how he became aware of the alleged breach, regardless once he was aware of it I think it would have been appropriate to have the FOIP Co-Ordinator investigate and recommend a remedy for the situation.

If Mr. Gardener had investigated he would have used the issue as a learning experience to educate the faculty member about FOIP. Indeed that has been his general experience, Mike did indicate that if any action was warranted it would be taken by Cathryn Heslop who is MacEwan University's FOIP Head. Given my broader conversation with Mike I am pretty sure that he wouldn't have recommended any discipline for this breach.

What I found interesting was the concept of personal information and sensitive personal information; inappropriate use of either constitutes a FOIP breach however the sensitive information is referenced in Appendix A of Policy D7510 as information requiring enhanced safe guards. It appears that there are two levels of FOIP information. Given you did not breach anything on sensitive personal information list reinforces the idea of resolving this issue with education as opposed to using it for disciplinary purposes.

In terms of process Dr. Higgins is the complainant, investigator and arbiter ... this is not due process.

By the way, Mr. Gardener was both professional and helpful, he stated that if I had any more questions he would try to answer them.