Guidelines for Researchers/Project Leads: Use of Student and Institutional Data (Personal Information)

Collection, use, and disclosure of Personal Information at the University of Calgary (the "**University**") must comply with applicable privacy legislation (*Freedom of Information and Protection of Privacy Act* ("**FOIP**"); *Health Information Act* ("**HIA**")), University policies (Privacy Policy, Information Asset Management Policy, Guidelines for Conducting University of Calgary Surveys, Health Information Management Policy, Research Integrity Policy) and national research ethics policy (Tri-Council Policy Statement – TCPS 2).

Personal Information means any recorded information about an identifiable individual.

This Guideline is intended to provide clarity on the different requirements and processes applicable to researchers and/or project leads intending to collect, use, or disclose Personal Information, whether in de-identified or identifiable form.

Which legislation, policy, or process applies will depend on the following:

1. Whether you are collecting the information for an "Institutional" or "Research" purpose;
2. If for a Research purpose, how you intend on collecting the information, whether:
    - Directly from students or other University community members; OR
    - Indirectly from the institution, the faculty or unit having already collected the information for an institutional purpose ("**Secondary Use**").

1. INSTITUTIONAL vs RESEARCH COLLECTION

Data is collected at the University either for an Institutional purpose or a Research purpose.

i. *How do I know if my intended data collection is "Institutional" or "Research"*?

Institutional: Institutional data collection means the information is being collected to be used for an operating program or policy of the University. This includes all collection of Personal Information for strategic operations and planning or program quality assurance, evaluation, or improvement purposes, whether or not the data may also be used for research purposes. Non-exhaustive factors that indicate whether collection of information is for institutional purposes include whether the collection is:

i. conducted to improve a specific practise, process or program within the University or intended to directly affect institutional practises or directives;
ii. mandated or funded by the University as part of its normal business operations;
iii. carried out by individuals in the course of their job duties within the University (as opposed to as a professional accomplishment in their capacity as a scholar/researcher);
iv. intended to be used internally or published or presented in a quality improvement or assurance publication or forum to suggest potentially effective models, strategies, or assessment tools, rather than to develop or contribute to generalizable knowledge; or
v. intended to provide specific advice (rather than generalizable knowledge) to the University administration for the purpose of directly and immediately affecting operations.

Some specific examples of institutional data collection include for the following purposes:

- learner registration, learner course data, fitness centre client registration, day camps client registration;
- by teaching faculty for grades, test scores, reporting and accreditation; or
- health and wellness clinics (subject to HIA or FOIP, depending on practitioner providing services).

If you are collecting data in your institutional role (for example, as a department head, instructor, or associate dean) for the purposes of an academic program (including program evaluation and development), this is considered Institutional data collection.

Research: The collection of information for research purposes by a principal investigator and co-investigators. Non-exhaustive factors that indicate whether collection of information is for research purposes include whether the collection is for a project:

i. intended to develop or contribute to generalizable knowledge, to be applicable in settings beyond the local practice context;
ii. not mandated by the institution, facility, clinic, or program;
iii. that has no specific organizational or institutional directive that the findings of the project are expected to immediately affect institutional or programmatic practice (however knowledge gained may inform improved practice);
iv. with a separate source of funding, from an external organization, or from an internal research grant competition;
v. the results of which are intended to be published in research/scientific publications; or
vi. conducted by an individual who is not in a position to immediately mandate and implement practice/policy change within an institution based on the findings.

ii. Which policies/legislation apply and where do I go for review and assistance?

Data collected for an **Institutional** purpose must comply with FOIP or, where it's health information collected by a custodian in the provision of health services in one of the University's clinics, the HIA. Institutional data collection must also comply with the University's Privacy Policy, Information Asset Management Policy, Survey Guidelines, and Health Information Management Policy. This type of data collection is not subject to REB review. Rather, the FOIP Office in University Legal Services provides advice, information, and guidance on institutional data collection, use, and disclosure under FOIP and HIA and how to ensure compliance with applicable legislation and policies.

Data collected for a **Research** purpose is not subject to the requirements of FOIP. This data collection is subject to REB review and approval and must comply with national research ethics policy, the TCPS 2, the Research Integrity Policy and where applicable, the HIA. While the researcher's collection of data for a Research purpose is not subject to FOIP, it must be remembered that where a researcher wishes to collect data *indirectly* by requesting it from the University (i.e. Secondary Use), the University's ability to share that information with the researcher will still be subject to the requirements of legislation under which the University collected the information (FOIP or HIA as applicable).

iii. What if I'm unclear as to whether my intended information collection is Research or Institutional?

Sometimes, the primary intent of a planned project is not clear. University affiliated project leads should consult their REB to help determine the project's primary intent, and to obtain a letter exempting them from the research ethics review requirement as appropriate. The REBs provide a guidance table that summarizes key distinctions between QA/QI and research (CHREB FAQs; CFREB FAQs).

Within project descriptions, language that references a specific University program or learner population and conveys an evaluative intent to improve practice could be perceived as an activity undertaken, at least in part, by the Institution and therefore be considered subject to FOIP. If the intent of the project is truly for research, and not for an institutional operational policy or purpose, the use of general language when phrasing research questions helps to minimize ambiguity.

Examples:

- What is the experience of university students….? (generic language)

- What is the experience of students in the University of Calgary's MDSC course 123….? (institution-specific language, implied intent to improve a specific University course or program)

If you are unsure whether your intended collection of personal information is for Research or Institutional purposes, please consult with the REB and contact the FOIP Office for guidance. In some circumstances, certain data collection initiatives may qualify as both Research and Institutional. In such cases, both the FOIP Office and REB will advise you as appropriate.

2. COLLECTING PERSONAL INFORMATION FOR RESEARCH PURPOSES: DIRECT vs. INDIRECT (SECONDARY USE) COLLECTION

Once you have confirmed that your collection of information is for a Research purpose, the process and requirements to follow for data collection will depend on whether you are collecting the information directly from participants, or making a request to the University for data that has already been collected by a faculty or unit under FOIP or HIA. If you are collecting for Institutional purposes, please consult the FOIP Office.

i. Direct collection from participants at the University (whether identifiable or deidentified data is being collected)

- TCPS 2 applies, REB review is required.
- Individual consent may be required.
- Operational approval to access students for the research project is required. Approvals should be sought from the Associate Dean (Student/Undergrad/UME/PGME) or the Dean of FGS, as applicable.

ii. Indirect collection from the University (i.e. researcher requests access to personal information already collected by the University under FOIP/HIA)

- TCPS 2 applies, REB review is required.
- Researcher must make a request to the University for the data, using the Request to Access Personal Information in the Custody or Control of the Institution for Research Purposes form available here. The form is provided to the FOIP Office who will consult with the Information Steward (as defined in the Information Asset Management Policy) or Information Custodian (as defined in the Health Information Management Policy) responsible for ensuring any use and disclosure of the information requested is done in a manner consistent with FOIP or HIA as applicable.
- Legal Services and the FOIP Office are the designated authority to provide advice on the interpretation of policies relating to personal and/or health information, and who the relevant Information Steward or Health Information Custodian is.
- The Information Steward or Health Information Custodian holds the authority to approve or deny requests for data. They will not permit use and disclosure of information in a manner that violates FOIP or HIA. Even where the proposed use and disclosure may be permitted under applicable legislation, the Information Steward or Health Information Custodian **is not** obligated to share the data and retains the discretion as to whether to provide it to the requestor. Considerations include (but are not limited to):
    - Whether the Information Steward or Health Information Custodian and associated staff have resources and time available to support the request, including resources required to extract, collate, and/or de-identify data;
    - Whether the information is of a proprietary, confidential, or competitive nature; or
    - Where the request is for identifiable data, a research access agreement between the researcher and the University may be required.

3. COLLECTING PERSONAL INFORMATION FOR INSTITUTIONAL PURPOSES

If you are collecting information for institutional purposes, please see the FOIP Office's website for Operating Standards, Guidelines & Forms, and contact the FOIP Office for any questions. If you would like to request institutional data already collected and held by the institution for institutional purposes, please contact the FOIP Office who will review your request with the relevant Information Steward or Health Information Custodian. As noted above, the Information Steward or Health Information Custodian is not obligated to share the data and retains the discretion as to whether to approve the request, including for the considerations set out above.

4. FAQs

As an instructor, I plan on engaging in quality improvement, quality assurance, curriculum review, or program assessment related to my own courses based on student grades and student work (either on my own, or with a group of instructors conducting self-study of the same course). What legislation or policy applies, and do I need to obtain any approvals?

Student grades and student work is considered personal information collected by the University under FOIP. Instructors can use their own student course grades and student work to engage in quality

improvement and do not need to obtain approval of the University's Information Steward. Any proposed use and disclosure beyond the individual instructor requires consultation with the FOIP Office and should follow the Disclosing Personal Information of Students Guideline.

I am conducting a research project intended to examine student grades or student Personal Information from courses other than my own. How can I do this?

REB review and approval will be required, regardless of whether you intend on collecting directly from students or indirectly by requesting the information from the University. Follow the requirements for Direct or Indirect collection as set out in Section 2 above.

I would like to collect Equity, Diversity, and Inclusion ("EDI") data about students. Are there any specific requirements that apply?

First, it is important to determine whether the intended data collection is for Institutional or Research purposes. Collecting EDI data from students for the purposes of informing EDI programs or policies in your faculty or unit is considered Institutional.

Institutional collection of EDI Data must comply with FOIP. In addition, given the sensitivity of this type of Personal Information, all Institutional EDI data collection must follow the EDI Data Operating Standard requirements.

Where the collection of EDI Data is for Research purposes, REB review is required, and the requirements for Direct or Indirect collection as set out in Section 2 above will apply.

Where can I get more information about FOIP requirements and best practices?

Please visit the FOIP Office's website for Operating Standards, Guidelines & Forms.