

TO: All MUNFA Members

FROM: The MUNFA Executive

DATE: November 28, 2017

SUBJECT: ATIPPA Requests for ASM Records - Custody and Control

Academic Staff Members at Memorial University have a right to privacy in their personal and professional communications and files.

As a public body, Memorial University of Newfoundland is subject to the [Access to Information and Protection of Privacy Act, 2015 \(ATIPPA\)](#). In light of this, Academic Staff Members may receive requests from University administrators to produce records responsive to requests for information under ATIPPA. However, only documents in the “custody and control” of the University are properly subject to access to information requests.

To protect academic freedom, most records an ASM creates or receives in the course of their jobs are **not** in the custody and control of the University and therefore are not subject to access to information legislation. One exception is records created or received in relation to an administrative role for the University, including documents such as letters and emails written or received as part of an ASM’s participation in certain committees, or correspondence with a university administrator.

Conversely, records relating to an ASM’s normal teaching and research would not typically be considered under the university’s custody or control. The fact that a record may be contained on a University email system is **not** determinative of custody or control.

As set out in [Articles 26.18 to 26.19](#), ASMs approached by Memorial administrative personnel to turn over records for inspection under ATIPPA must be given at least 5 days to search for the records and consider the request. Further, ASMs must be notified of their right to seek the Association’s assistance, as MUNFA can provide guidance to the ASM in deciding which records to turn over to the University.

If an ASM is advised by the administration that a record of theirs has been requested under ATIPPA, they are encouraged to contact the MUNFA office at munfa@mun.ca or 864-8642 for assistance.