



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2025-027

June 2, 2025

### Memorial University of Newfoundland

**Summary:**

The Complainant made an access request to Memorial University of Newfoundland for records concerning the Dean of Science search process by the Dean of Science Search Committee members. Memorial provided a large number of records, with redactions based on sections 29 (policy advice or recommendations), 31 (disclosure harmful to law enforcement), 32 (confidential evaluations), 35 (harm to the financial and economic interests of a public body), and 40 (disclosure harmful to personal privacy) of the **Access to Information and Protection of Privacy Act, 2015**. This Office made recommendations for additional releases to Memorial which it accepted and additional information was disclosed to the Complainant. The Commissioner found that the remaining exceptions had been properly applied and determined that Memorial had conducted a reasonable search. The Commissioner recommended Memorial continue to withhold the remaining redacted information.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, section 29, 31, 32, 35 and 40.

**Authorities Relied On:** NL OIPC Reports [A-2022-031](#) and [A-2025-007](#)

## BACKGROUND

- [1] The Complainant made an access to information request to Memorial University under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for the following:

Any and all communications and records (including notes and emails) from current and former Dean of Science Search Committee members (and named the 11 members of the committee) concerning the Dean of Science search process, including consultations with stakeholders, feedback, complaints, and concerns thereof made to the Search Committee or HR, and responses to such feedback, complaints, and concerns from the period of October 1, 2023 to present.

- [2] Memorial provided a final response to the Complainant, producing over 2,200 pages of responsive records, withholding some information under sections 29 (Policy advice or recommendations), 31 (Disclosure harmful to law enforcement), 32 (Confidential evaluations), 35 (Disclosure harmful to the financial or economic interests of a public body) and 40 (Disclosure harmful to personal privacy). The Complainant made a complaint to this Office seeking our review of the decision to withhold information and asserting that Memorial did not conduct a reasonable search.
- [3] During our investigation, Memorial released some additional information to the Complainant which had previously been redacted. However, informal resolution was unsuccessful, and the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

## PUBLIC BODY’S POSITION

- [4] Memorial asserts that it conducted a reasonable search for records by contacting all individuals identified in the Complainant’s request, as well as an additional relevant employee, and undertaking thorough searches of both electronic and physical files. Over 2,200 pages of responsive records were located. In applying redactions, Memorial relied on several provisions of the Act to protect internal advice and recommendations, safeguard system security information, confidential evaluative material about candidates, sensitive financial information, and protect personal information of applicants and employees.

Memorial maintains that all redactions were appropriate and that public interest considerations did not override the reasons for applying the exceptions to access.

## COMPLAINANT'S POSITION

- [5] The Complainant alleges that Memorial's decision to grant only partial access to records was inadequate, asserting that the level of redaction rendered the disclosed records effectively meaningless for addressing their access request. They further contend that additional responsive records likely exist but were not provided, referencing personal knowledge of complaints made by colleagues and a reprimand issued following a search committee event, which they believe were not captured in the disclosed material. The Complainant said that they were unable to confirm whether that information was located during the search but withheld by Memorial using one of the exceptions claimed. The Complainant sought both disclosure of the withheld information and a further search to locate any outstanding records.

## ISSUES

- [6] The issues for this report to address are whether Memorial appropriately applied the exceptions to access at sections 29, 31, 32, 35 and 40(1); and whether Memorial conducted a reasonable search for records.

## DECISION

### Section 29(1)(a) (policy advice or recommendations)

- [7] As discussed in Report [A-2025-007](#), the purpose of this exception is to foster and protect an environment in which public servants can produce full, free and frank advice, without being concerned that their work might be subject to public scrutiny. This will include such things as views, opinions, warnings, questions, disagreements, or approvals. It also includes drafts of documents such as policies or agreements because they are, essentially, proposals for the creation of instruments that are subject to further discussion and amendment, and ultimately require executive approval.

[8] During our review of the responsive records, we recommended that Memorial release some information on the grounds that the information constituted factual material rather than advice or recommendations. This included factual statements regarding the timing of nomination calls and election announcements, general observations unrelated to policy development. There was also non-substantive content such as email headers, table headers, survey completion statuses, and formatting comments in draft materials that were withheld which did not reveal substantive policy advice or recommendations. While the information contained in these emails, tables and other such records contain information that could be withheld under this section, per section 8(2), the applicant would have a right to remainder of the severed record. In response, Memorial accepted our recommendations and released further information to the Complainant. Upon review of the remaining information redacted under this exception to access, we are satisfied Memorial has appropriately applied section 29(1)(a) to protect advice, proposals, analyses, and recommendations developed during the Dean of Science search process.

#### **Section 31(1)(l) (disclosure harmful to law enforcement)**

[9] Paragraph (l) of this provision allows a public body to withhold information where the disclosure of that information could reasonably be expected to reveal the security arrangements for a computer or communication system. It was used to redact online meeting links, access codes, and passwords. This approach follows current best practices, and the exception was applied appropriately.

#### **Section 32(a) (confidential evaluations)**

[10] This provision was used, appropriately, to withhold some individuals' opinions about preferred candidates for positions.

#### **Section 35(1)(b)**

[11] Section 35(1)(b) was applied to withhold financial and budgetary information related to the Dean of Science search process. Memorial explained that the redacted information pertained to departmental budget discussions and operational planning tied to the hiring and transition of a new Dean. Memorial asserted that disclosure of these financial details could reasonably be expected to harm the financial or economic interests of the University by revealing internal budgeting considerations, resource allocations, and strategic financial

planning related to academic leadership. The University emphasized that maintaining the confidentiality of this information was necessary to protect its financial integrity, avoid potential competitive disadvantages, and preserve the discretion of its internal financial management processes.

[12] As discussed in [A-2022-031](#), the criteria for section 35(1)(b) as follows:

1. The information is financial, commercial, or scientific.
2. The information belongs to a public body or to the government of the province.
3. The information has, or is reasonably likely to have, monetary value.

All three parts of the test must be answered in the affirmative for the exception to apply. With respect to parts one and two of the test, the information is financial as it is applied to budget information for the operational portions of the search, which clearly consists of financial information belonging to Memorial. In respect to the third part, however, we are unconvinced that the information withheld under this section holds monetary value. That said, this information was also subject to the application of section 29(1)(a), and we are satisfied that it qualifies as such and can continue to be withheld under that exception to access.

#### **Section 40(1) (disclosure harmful to personal privacy)**

[13] Section 40 prohibits the disclosure of personal information if it would constitute an unreasonable invasion of personal privacy. It covers both the personal information of public body employees, and that of other individuals.

[14] In the present case, as it was in [A-2025-007](#), a great deal of information redacted under section 40 consisted of the letters and resumes of people applying for positions. Even though some of that information, such as lists of academic publications, would otherwise be public, disclosure of any of it would likely identify the applicants, violating the confidence with which their applications had been made.

[15] Other section 40 redactions throughout the record consist of individuals' employment history, personal email addresses or phone numbers, or personal remarks included in official communications. All of those redactions were appropriate.

[16] During our review of the responsive records, we recommended to Memorial that some information withheld under section 40 did not constitute personal information and should be released. Memorial accepted our recommendation and disclosed additional information to the Complainant. We are satisfied that the remaining information withheld under this exception to access has been withheld appropriately.

### **Reasonable Search**

[17] The Complainant expressed concern that Memorial did not conduct a reasonable search for records responsive to his access request. They stated that, based on the redacted records received, key information appears to be missing. The Complainant says they have seen emails responsive to the request, shared with them by the senders or receivers. The Complainant states they are unable to tell if these emails were included due to the level of redaction throughout the release. Given their knowledge of these communications, and inability to see them in the responsive records, the Complainant contends that Memorial's search did not capture all existing records and was therefore not reasonable under the standards required by the Act.

[18] Memorial's position is that it conducted a reasonable search for records by contacting all members of the Dean of Science search committee named in the applicant's request, along with an additional Human Resources manager directly involved in the process. Each individual searched both electronic and physical files using relevant keywords ("Dean of Science"), and the search ultimately produced over 2,200 pages of responsive records. Memorial emphasized that employees involved were familiar with access to information and the scope of the request, asserting that their search met the required standard of reasonableness rather than perfection.

[19] In an effort to assess whether the emails referenced by the Complainant were among the records located, the Complainant was invited to submit copies of these emails to this Office for comparison. Despite these requests, no records were provided to our Office.

[20] Based on the evidence reviewed, I am satisfied that Memorial conducted a reasonable search in response to the access request.

## RECOMMENDATIONS

- [21] Under the authority of section 47 of **the Access to Information and Protection of Privacy Act, 2015** I recommend that Memorial University maintain its position and continue to withhold the information pursuant to sections 29, 31, 32, and 40.
- [22] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of Memorial University of Newfoundland must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.
- [23] Dated at St. John's, in the Province of Newfoundland and Labrador, this 2<sup>nd</sup> day of June 2025.



Kerry Hatfield  
Information and Privacy Commissioner  
Newfoundland and Labrador