

Vancouver Island University Guidelines for Documenting The Competition Process

Introduction

The purpose of these guidelines is to provide Human Resources personnel and administration involved in competitions with an understanding of information availability under the Freedom of Information and Protection of Privacy Act (the Act) relating to the competition process. The basic purposes of the Act are defined in Section 2(1) of the legislation as:

“The purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy by

- (a) giving the public a right of access to records,
- (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,
- (c) specifying limited exception to the rights of access,
- (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
- (e) providing for an independent review of decisions made under this Act.”

In considering the above stated purpose, Section 2(2) of the Act should be highlighted:

“This Act does not replace other procedures for access to information or limit in any way access to information that is not personal information and is available to the public.”

Sections of the Act relevant to the competition process are provided in Appendix A. A chart summarizing the records involved in the process and how they would be treated in response to a request under the Act is provided in Appendix B.

Administration and Human Resources personnel should record information factually and objectively, following professional standards of practice.

Job Posting Process

The competition begins with the process of posting the job. A number of steps should be taken prior to the actual posting of the job and a series of records are created as follows:

- development and verification of the job description content;
- analysis of the job description for the purpose of developing selection criteria for the competition which may lead to the creation of an analysis worksheet;
- development of a screening guide.

None of these records contains personal information or information that would be subject to the exceptions in the Act. Therefore, this information may be shared, and could be released if requested. A formal Freedom of Information (FOI) request is not required.

Interview and Assessment Process

There are three stages to the assessment process:

1. **Determination of the selection process**
This involves selecting or developing tests, developing questions and devising a rating guide. While these records contain no personal information, they are sensitive in that disclosure of them could lead to some candidates having an unfair advantage over others. Section 3(1)(d) of the Act excludes a record of a question to be used on an examination or test. If this information is requested prior to the completion of the competition, it should be withheld.
2. **Receiving and screening of applications**
At this stage a number of records containing personal information are received or created (e.g., applications, resumes and screening forms). The Act requires adequate security for all personal information. If all of the competition records are kept in one file, then the whole file must be kept secure to prevent unauthorized access. A candidate has a right of access to their own personal information contained in these files, but they do not have a right of access to the information of other candidates. If a candidate wishes to make a formal FOI request for information of another candidate, contact Toni O’Keeffe, Executive Director, Communications and Public Relations, Local 6341.
3. **Assessment process**
Documents created in this process record information about applicants (e.g., test documents and results, consensus ratings, panel notes, reference checks, if applicable). These records contain sensitive personal information, including evaluations of applicants by members of the panel. A candidate has a right of access to their own personal information contained in these files, but they do not have a right of access to the information of other candidates. If a candidate wishes to make a formal FOI request for information of another candidate, contact Toni O’Keeffe, Executive Director, Communications and Public Relations, Local 6341.

Notification Process

Once a competition for a regular position is complete and the selection made, a letter of offer is issued to the successful candidate(s). Letters are not sent to the unsuccessful candidates, however, those applicants interviewed should be advised by the administrator of the outcome. Under Article 13.06 "Within seven (7) calendar days of the date of appointment to a vacant position within the bargaining unit, the name of the successful applicant shall be conveyed to each interviewed applicant within the bargaining unit. Upon request, unsuccessful applicants from within the bargaining unit shall be given the reasons why they were unsuccessful.

Interviewed candidates who are not employees are merely informed that another candidate has been selected or an internal candidate was successful, if that is the case.

Formal Request Under FOI

If a formal FOI request for records related to the competition is received during the course of the competition, the following points should be taken into consideration:

- Information concerning the job posting process may be released routinely without a formal request.
- Questions to be used in written tests or at the oral interview are withheld until after the competition is completed. In cases where a decision has been made that the same questions will be used again in another competition, they will continue to be withheld.
- A candidate has a right of access to their own personal information contained in these files, but they do not have a right of access to the information of other candidates. If a candidate wishes to make a formal FOI request for information of another candidate contact Toni O’Keeffe, Executive Director, Communications and Public Relations, Local 6341.
- If references have been supplied in confidence, information in a telephone note or a letter of reference identifying a referee as having made particular comments are withheld, even from the candidate they concern. In some cases, by severing the record or by providing a summary of the reference, information may be released to the applicant without identifying the referee. (Note: References should only be accepted in confidence in exceptional circumstances.)
- The fact that a candidate is grieving the decision does not affect how the University would respond to a formal FOI request from the candidate (i.e., some information that would be released in the grievance/arbitration process may be withheld from the candidate.)

Definitions

Personal Information

“Means recorded information about an identifiable individual, including

- a) the individual’s name, address or telephone number,
- b) the individual’s race, national or ethnic origin, colour, or religious or political beliefs or associations,
- c) the individual’s age, sex, sexual orientation, marital status or family status,
- d) an individual’s fingerprints, blood type or inheritable characteristics,
- e) information about the individual’s health care history, including a physical or mental disability,
- f) information about the individual’s educational, financial, criminal or employment history,
- g) anyone else’s opinions about the individual, and
- h) the individual’s personal views or opinions, except if they are about someone else.”

Record

“includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.”

(Note: Electronic mail and Voice mail fall under the definition of “record” under the Act.)

APPENDIX A

Relevant Sections of the Act

Scope of the Act

3. (1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:
 - (d) a record of a question that is to be used on an examination or a test,

Disclosure harmful to personal privacy

22. (1) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if
 - (g.1) the disclosure could reasonably be expect to reveal that the third party supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation,
 - (2) On refusing, under this section to disclose personal information supplied in confidence about an applicant, the head of the public body must give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identify of a third party who supplied the personal information.
 - (3) The head of the public body may allow the third party to prepare the summary of personal information under subsection (5).

How personal information is to be collected

27. (1) A public body must collect personal information directly from the individual the information is about unless
 - (a) another method of collection is authorized by
 - (i) that individual
 - (ii) the commissioner under section 42(1)(i), or
 - (iii) another enactment,
 - (b) the information may be disclosed to the public body under sections 33 to 36, or
 - (c) the information is collected for the purpose of
 - (i) determining suitability for an honour or award, including an honorary degree, scholarship, prize or bursary,
 - (ii) a proceeding before a court or judicial or quasi judicial tribunal
 - (iii) collecting a debt or fine or making a payment, or
 - (iv) law enforcement

APPENDIX B

Job Posting Process

Steps	Records	Access
Development and/or verification of the job description content	draft job descriptions	Available without a FOI request
Analysis of job description to develop selection criteria	analysis worksheet	Available without a FOI request
Confirmation of qualifications required for screening	screening guide	Available without a FOI request

Interview and Assessment Process

Steps	Records	Access
Determination of selection process	tests, questions, for interview, rating guide	Releasable after (not before) the competition is finalized, except for interview questions that will be used again, with FOI request. 3(1)(d)
Receiving and screening applications	applications, resumes, screening forms	A candidate may access their own personal information, but not the information pertinent to other candidates with FOI request. 22(1); 22(3)(d)
Assessment process	written tests, test results, consensus ratings, panel notes, references checks, police records checks	A candidate may access their own personal information, but not the information of other candidates with FOI request. 22(1); 22(3)(d)

Notification and Appeal Process

Steps	Records	Access
Notification Process	offer, notification letter	A candidate may access their own personal information, but not the information of other candidates with FOI request. 22(1); 22(3)(d)
Grievance Process	most competition records	Releasable only in grievance/arbitration process. 33(d)