



**Report of Findings: 2017-4226-AP-2288**  
***Right to Information and Protection of Privacy Act***  
**Université de Moncton**

**September 25, 2020**

**Note:** 2019 amendments to New Brunswick legislation transferred the responsibility for the access and privacy mandates from the Office of the Integrity Commissioner to the Office of the Ombud for New Brunswick.

**Summary:** On April 27, 2017, the Applicant made an access request to the Université de Moncton for statistical information on the number of full-time tenured professors, full-time sessional instructors, and part-time sessional instructors dating back to the 2006-2007 academic year. The Université responded by providing the Applicant with the requested information on the first two points. As for the last point, the Université stated that it did not have any records containing this kind of information, and in the alternative, provided the Applicant with statistical information on the number of credits offered by non-tenured instructors dating back to 2012. The Applicant was not satisfied and filed a complaint.

This complaint was not resolved through the informal resolution process and became the subject of a formal investigation by the Ombud. While the Université maintained its position that it would be challenging to gather this information and that it has concerns about whether it would be accurate, there was nothing to suggest that the Applicant does not have a right of access to this information, which consists of statistical information about the Université's teaching staff. The Ombud recommended that the Université disclose the requested statistical information about part-time instructors to the Applicant in full.

**Statutes Considered:** [\*Right to Information and Protection of Privacy Act\*](#), SNB, c. R-10.6.

## I INTRODUCTION

1. On April 27, 2017, the Applicant made an access request to the Université de Moncton (“the Université”) for the following information:
  - The number of full-time, tenured (or tenure-stream) faculty in each university department for each year from the 2006-2007 academic year through the 2016-2017 academic year (inclusive). For greater clarity, I am seeking the number of individuals in each category, not the number of full-time equivalents. Please include faculty from all bargaining units, as well as any non-organized faculty.
  - The number of full-time sessional or contractually limited appointments in each university department for each year from the 2006-2007 academic year through the 2016-2017 academic year (inclusive). For greater clarity, I am seeking the number of individuals in each category, not the number of full-time equivalents. Please include faculty from all bargaining units, as well as any non-organized faculty.
  - The number of part-time sessional or contractually limited appointments in each university department for each year from the 2006-2007 academic year through the 2016-2017 academic year (inclusive). (These appointments are sometimes called adjunct or contingent faculty and are generally employed on a course-by-course basis, receiving limited-term contracts to teach one or more courses.) For greater clarity, I am seeking the number of individuals in each category, not the number of full-time equivalents. Please include faculty from all bargaining units, as well as any non-organized faculty.
2. The Université responded by letter dated November 15, 2017, stating that the requested information was not available in a record and had never been compiled; however, the Université had conducted a search and was able to provide information for the first two categories of the request. The Université provided an Excel spreadsheet setting out the numbers of full-time regular (tenured) professors and “temporary” professors (professors retained on contract for a set period of time) for 2006-2007 to 2016-2017.
3. As for the third category (part-time instructors), the Université stated that it did not have any records containing this kind of information and instead referred the Applicant to the Vice-President for Teaching and Research’s annual reports for the years 2012-2013 to 2016-2017, which includes the number of credits offered by non-tenured professors per faculty.
4. The Applicant was not satisfied with the University’s response and filed a complaint with this Office. In making this complaint, the Applicant stated that it was “inconceivable” that the Université has no

records showing who had taught there during the timeframe of the request and noted that the other three public universities in the Province fully responded to the same request.

5. During the complaint process, the Applicant informed us that the same request had been submitted to the 78 publicly funded universities across the country, following which the Applicant received at least some information on the number of faculty retained on contract from all but one—the Université. The Applicant found it difficult to believe that the Université is the only university in Canada that does not keep such records, particularly where other universities of similar size and resources were able to identify and release information.
6. This complaint was unable to be resolved informally and became the subject of a formal investigation. I am concluding this matter with this Report of Findings and a recommendation that the Université disclose the remainder of the information requested by the Applicant.

## II ISSUE

7. The sole issue in this matter is whether the University has provided all the information that the Applicant is entitled to receive under the Act.

## III DECISION

8. In this case, the Université has not relied on a specific exception to disclosure under the Act to refuse access to the requested information about part-time instructors, but rather claims that it does not have this information readily available and that there are a number of challenges in compiling it.
9. The Université does not dispute that it has this information somewhere in its records but indicated that conducting a search over a ten-year period in each of its various faculties would yield data of questionable reliability, given that the Université does not have a centralized system to easily compile this kind of information like other universities. The Université indicated that it does not have the capacity to gather this information and verify its accuracy. The Université also stated that there is no mechanism in place to validate the information either for the current year or previous years, across all three of its campuses.
10. During this investigation, the Université informed this Office that the information provided in its initial response did not include information about “full-time instructors” as this is not a term or category of teaching staff that the Université uses. This caused some confusion, as it led both investigative staff

and the Applicant to question whether there was more information at issue in this complaint than initially thought.

11. After carefully reviewing the submissions in the complaint file and through further discussions with Université officials, it was clarified that the term the Université uses for full-time teaching staff that are on a fixed-term contract is “temporary professors” (“professeurs temporaires”). Statistical information about the number of full-time teaching staff under fixed-term contracts, under the heading “temporary professors”, for all ten years of the request was provided to the Applicant in the Université’s response. As such, I find that Université provided the Applicant with all the requested information in relation to this point of the request.
12. While this is the case, I raise this issue, not only to address this part of the Applicant’s complaint, but also to highlight the difficulties we encountered in trying to address this complaint with Université officials. The delays this Office encountered in addressing this complaint in a timely manner partly stemmed from the Université’s seeming unwillingness to provide clear and detailed answers to our questions, as well as some confusion that arose from the differences between the terms used by the Applicant in making the request and the terms the Université uses internally to classify its professors and teaching staff.
13. Throughout the investigation, the Université maintained that the following factors present significant challenges to gathering the requested information about part-time instructors:
  - The Université has three campuses around the Province. The Moncton campus is comprised of faculties, while the Edmundston and Shippagan campuses have departments, in which many disciplines are combined. Université officials stated that this means that if the requested information were retrieved, it would not be in a consistent format.
  - Part-time instructors sometimes teach courses in more than one faculty or department, and sometimes teach courses on different campuses. Université officials stated that they may not be able to compile an accurate number of part-time instructors even if they identified all of the courses taught by these individuals.
  - Université officials stated that tenured professors or full-time instructors (temporary professors), or other staff members sometimes teach courses where no part-time instructor is available to teach them.
  - Some of the requested information, particularly information dating back to 2006-2007, may no longer exist as it may have been purged from the Université’s records in keeping with its retention schedules.

14. While I agree that there may be some challenges in the Université compiling the requested information about part-time instructors, particularly for information dating back some thirteen years, I do not agree that this excuses the Université from providing any information at all. The Applicant has requested statistical information about the Université's teaching staff and, as demonstrated by the numerous other public universities across the country that were able to and did provide it, has a right of full access under the *Act*.
15. As such, I find that the Université is required to provide the Applicant with a response to this part of the Applicant's request and to take steps to search the records in its custody and control before doing so.

#### IV RECOMMENDATION

16. Based on the above findings, I recommend under s. 73(1)(a)(i)(A) of the *Right to Information and Protection of Privacy Act* that the Université disclose in full the requested information about part-time instructors for the 2006-2007 to 2016-2017 academic years, along with any supporting information or explanations that will better help the Applicant understand the information provided by the Université.
17. As set out in s. 74 of the *Right to Information and Protection of Privacy Act*, the Université must give written notice of its decision with respect to these recommendations to the Applicant and this Office within 20 business days of receipt of this Report of Findings.

This Report issued in Fredericton, New Brunswick this 25th day of September, 2020.

  
Charles Murray  
Acting Ombud for the Province of New Brunswick