



7 September 2016

[REDACTED]
[REDACTED]

Dear [REDACTED]

Freedom of Information (FOI) request (ref 160438)

I refer to your application under the *Freedom of Information Act 1989* (ACT) (the Act) received by the University of Canberra on 1 August 2016 for access to the following,

1. formal reports of sexual assaults made to the Office of the Dean of Students or the Director of HR;
2. formal reports of indecent filming made to the Office of the Dean of Students or the Director of HR;
3. formal reports of plagiarism made to the Student Misconduct Officer.

I have addressed each part of your FOI request separately below.

Part 1 of your request

Part 1 of your request relates to documents that contain information related to reports of sexual assaults.

I have determined under sections 40, 41 and 45 of the Act to refuse access to the documents that fall within the scope of part 1 of your request. Under section 23(4) of the Act I may refuse to grant access to these documents without specifying, in respect of each document, the provision of the Act under which each document is claimed to be an exempt document.

Part 2 of your FOI request

I have undertaken a search of formal reports of indecent filming with not only the Dean of Students and Director of HR, but also the Deans of all faculties within the University. No documents have been identified.

Part 3 of your FOI request

I have undertaken a search which has identified over 1,000 files that may contain information related to reports of plagiarism. I have reviewed five of these files and have formed the view that

due to the nature of these documents they would be exempt documents under sections 36, 40, 41 and 45 of the Act. Under section 23(4) of the Act I may refuse to grant access to these documents without specifying, in respect of each document, the provision of the Act under which each document is claimed to be an exempt document.

The reasons I have refused access are explained at Attachment A.

Charges

A breakdown of the charges for the actual time spent processing your request is below.

ACTUAL PROCESSING CHARGES		
Search and Retrieval		
Task	Time	Cost \$25.00 per hour
Search and retrieval of relevant electronic and registry files	6.5 hours	\$162.50
A. Search and retrieval subtotal	6.5 hours	\$162.50
Decision making		
Task	Time	Cost \$33.00 per hour
Examination of documents	2.5 hours	\$82.50
Determination	12 hours	\$396.00
Preparation of notice of access decision	4.5 hours	\$148.50
Decision making subtotal <i>before exclusion of 10 hours in accordance with the Determination Item 400 (5)(e)</i>	19 hours	\$627.00
B. Decision making subtotal <i>including exclusion of 10 hours in accordance with the Determination Item 400 (5) (e)</i>	9 hours	\$297.00
ESTIMATED TOTALS AND DEPOSIT		
ESTIMATED TOTAL (total of A, B and C)		\$459.50
LESS DEPOSIT PAID <i>25% of total estimated charge, in accordance with the Determination Item 401 (3)</i>		\$351.50
TOTAL OUTSTANDING An invoice for this amount will be forwarded to you shortly		\$108.00

Your rights of review

If you are not satisfied with my decision you may, within 28 days of notification of this decision, apply in writing for an internal review. If you wish to do so please forward the letter or email to FOI@canberra.edu.au and it will be forwarded to the person authorised to undertake the review.

You may also submit a complaint to the Ombudsman under section 54 of the Act. You can access the FOI Act and the Ombudsman website via the University's FOI webpage at <http://www.canberra.edu.au/about-uc/policy-and-legislation/freedom-of-information>.

If you have any further questions please email foi@canberra.edu.au.

Yours sincerely



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Attachment A

Reasons for Decision

Section 36 – Internal working documents

Section 36(1) of the Act states a document is exempt if its release would disclose matter in the nature of opinions or advice or recommendations that have been prepared for the purpose of the deliberative process being undertaken by the University on a matter coming within the functions of the University, and would be contrary to the public interest.

It is my view that disclosure of these documents would be contrary to the public interest as they could prejudice the fair treatment of students particularly where the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.

The University's functions include the transmission and advancement of knowledge by undertaking teaching and research of the highest quality. In performing this function, the University takes allegations of plagiarism seriously. In undertaking the investigative process, information collected includes the candid opinion of staff, the evaluation of assessment pieces, and the considerations which have bearing upon the course of action taken. This information assists in the deliberative process to make a final determination in each case.

Section 40 – Documents concerning the operations of the University – Dealing with complaints and other sensitive student or staff issues

Section 40(1)(d) of the Act states a document is exempt if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the University.

I take the view that the consultation process undertaken by the University when dealing with any complaint or allegation, including the internal consultation on the terms of the complaint put to the staff member or student concerned, or any other sensitive or confidential student or staff issue, is an important and sensitive part of the operations of the University.

Section 40(2) states the section does not apply if disclosure of the documents would, on balance, be in the public interest. I take the view that the balance of public interest would be on the side of non-disclosure of such documents, because their disclosure would prejudice the fair treatment of individuals and the information is about allegations of misconduct or unlawful, negligent or improper conduct and may prejudice the University's ability to obtain similar information in the future.

Section 41 – Documents affecting personal privacy

A document is an exempt document if its disclosure would involve the unreasonable disclosure of personal information about any person. Many of the documents coming within the terms of your FOI request contain personal information in relation to complaints and investigations which would be unreasonable to disclose. Much of this information is provided in confidence by the persons involved, so section 45 below is also applicable to these documents.

Section 45 – Documents containing material obtained in confidence

A document is an exempt document if its disclosure would constitute a breach of confidence. The University treats any complaint it receives in confidence, and accepts any such complaint on the basis, to the extent possible, it will be received in confidence and the identity of the complainant kept confidential. This is essential to ensure staff and students have trust in the University's complaint handling processes.