

 <b>The University of British Columbia Board of Governors</b>	<b>Policy No.:</b>  <b>116</b>	<b>Approval Date:</b> December 1995  <b>Last Revision:</b> November 1999
	<b>Responsible Executive:</b> Vice-President, External and Legal Affairs	
<b>Title:</b>  <b>Commercial Agreements Initiated by External Affairs and the Freedom of Information and Protection of Privacy Act</b>		
<b>Background &amp; Purposes:</b>  To enable representatives of External Affairs at the University to transact commercial agreements with organizations outside UBC (“third parties”) and to enable UBC to fulfill its obligations under the Freedom of Information and Protection of Privacy Act (“the Act”).		

## 1. General

- 1.1. Recognizing that UBC is a public body under the Freedom of Information and Protection of Privacy Act (“the Act”), representatives of External Affairs routinely and early in their discussions with third parties explain UBC’s obligations under and procedures relating to the Act. Representatives of External Affairs encourage third parties to consent to release as much information as possible.
- 1.2. Representatives of External Affairs will incorporate information disclosure clauses into all commercial agreements they negotiate after this revised policy comes into force. Information disclosure clauses will acknowledge UBC’s responsibilities under the Act and require the third parties to identify what records and information may be excepted under the Act and whether that determination will change over time (e.g. in the event of a press conference).
- 1.3. Representatives of External Affairs will handle all sensitive commercial information responsibly and make best efforts to ensure that no one at UBC deliberately or inadvertently releases such information without the proper authorization.
- 1.4. Representatives of External Affairs will advise third parties that UBC will consider their submissions as to the proper application of the Act in making its determination whether or not to disclose information to an applicant.

## **PROCEDURES**

**Approved: December 1995**

**Revised: May 1999**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors and are incorporated in the next publication of the UBC Policy and Procedure Handbook."*

### **1. General**

- 1.1. Representatives of External Affairs routinely and early in their discussions with third parties explain UBC's obligations under and procedures relating to the Act.
- 1.2. Representatives of External Affairs incorporate into all commercial agreements an information disclosure clause that:
  - 1.2.1. acknowledges UBC's responsibilities under the Act; and
  - 1.2.2. requires the third party to identify what records and information may be excepted under the Act and whether that determination will change over time (e.g. in the event of a press conference or other event).
  - 1.2.3. requires the third party to reimburse UBC for all costs of appeal where the third party has made submissions to UBC that certain information should not be disclosed to the applicant.
- 1.3. Upon receipt of a request for information under the Freedom of Information and Protection of Privacy Act related to the commercial relationship, the Head of Public Body for UBC or designate reviews all records pertaining to the request to determine whether to disclose third party business information to the applicant.
- 1.4. If UBC decides not to disclose third party business information to the applicant, relying upon the exception from disclosure under section 21, and in accordance with the information disclosure clause in an agreement, UBC will give the third party notice of such decision. If an applicant appeals UBC's decision not to disclose third party business information to the Office of the Information and Privacy Commissioner, section 57(1) of the Act provides that UBC has the burden to prove that the applicant has no right of access to the record or part. In such circumstances, the third party will be responsible for all costs related to the confidentiality requirements of the third party.
- 1.5. If UBC decides to disclose of third party information that may be excepted from disclosure under section 21, UBC will give the third party notice under section 23 of the Act to allow the third party an opportunity to comment on the impact of the disclosure decision on its business interest. The third party will have twenty days in which to respond to the notice. If UBC decides to disclose third party information, after considering the third party's submissions, UBC will first notify the third party of the disclosure decision to allow the third party an opportunity to request the Information and Privacy Commissioner to review UBC's decision. Section 57(3)(b) of the Act provides that the third party has the burden to prove that the applicant has no right of access to the record or part. In such circumstances, the third party will be responsible for all costs related to the confidentiality requirements of the third party.