

# Privacy Policy

## AD-004

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Director, Information Technology	Lynne Wood	
<b>Policy Holder</b>	<b>Print Name</b>	<b>Date (MM/DD/YYYY)</b>

College Council	
<b>Advising Body</b>	<b>Date Consulted (MM/DD/YYYY)</b>

Vice-President, External Relations and Enrolment	Lisa Banks	10/01/2020
<b>Approver</b>	<b>Print Name</b>	<b>Date (MM/DD/YYYY)</b>

## Purpose

This policy outlines the general rules regarding the protection of privacy in the control and custody of Georgian College (Georgian).

## Scope

This policy applies to all members of the Georgian community, including but not limited to employees, former employees, third parties, and members of committees who collect, use, disclose, retain and destroy information designated as Personal Information by the *Freedom of Information and Protection of Privacy Act, 1990*, (FIPPA).

FIPPA applies broadly to any information in the custody and control of Georgian, with the exception of personal health information (PHI) governed by the Personal Health Information Protection Act, 2004 (PHIPA).

This policy is to complement, not detract, from FIPPA, PHIPA or any collective agreements in place at Georgian.

## Definitions

Word/Term	Definition
<b>Privacy</b>	<b>Privacy</b> includes both the confidentiality and security of client information. Individuals have the right to the protection of their personal information or personal health information. This right includes the ability to control information about oneself and the ways in which it is shared.
<b>Confidentiality</b>	<b>Confidentiality</b> includes ensuring information is not made available or disclosed to unauthorized individuals or organizations.
<b>Security</b>	<b>Security</b> includes the ability to protect personal or personal health information using any means available, whether it be digital or manual protection.
<b>Circle of Care</b>	The term “ <b>circle of care</b> ” is commonly used to describe the ability of certain health information custodians to assume an individual’s implied consent to collect, use or disclose personal health information for the purpose of providing health care, in circumstances defined in PHIPA.
<b>Health Information Custodian (HIC)</b>	A Health Information Custodian (HIC) is responsible for collecting, using and disclosing personal <b>health information</b> on behalf of clients.
<b>Freedom of Information and Protection of Privacy Act, 1990 (FIPPA)</b>	<b>Freedom of Information and Protection of Privacy Act, 1990 (FIPPA)</b> is Ontario’s privacy legislation. Personal information means any recorded information about an identifiable individual. Information which cannot be matched to an individual is no longer personal information. Also, information about a partnership or corporation or other business entity is not normally about an individual.
<b>Personal Health Information Protection Act, 2004 (PHIPA)</b>	<b>Personal Health Information Protection Act, 2004 (PHIPA)</b> is Ontario’s protection of personal health information legislation which establishes rules for collection, use and disclosure of personal health information in the hands of health information custodians (HICs) such

	<p>as health care providers, insurance companies and employers. Georgian College is considered a HIC.</p>
<p><b>Personal Information</b></p>	<p><b>Personal Information</b>, as defined by FIPPA, means recorded information about an identifiable individual, including, but not limited to, name, home address, telephone numbers, gender, age and marital or family status, race, national or ethnic origin, colour, religious or political affiliations, employee history, employee number, student number, health information, educational history, disabilities, blood type, financial history, criminal history, other persons’ opinions about an individual, an individual’s private views or opinions, and name, address and phone number of parent, guardian, spouse or next of kin.</p> <p>Personal information <b>does not include the name, title, business address, and or business contact information of Georgian College employees.</b></p>
<p><b>Personal Health Information (PHI)</b></p>	<p><b>Personal Health Information (PHI)</b> includes “Identifying information about an individual in oral or recorded form, if the information:</p> <ul style="list-style-type: none"> <li>(a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual’s family,</li> <li>(b) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,</li> <li>(c) is a plan of service within the meaning of the <i>Long-Term Care Act, 1994</i> for the individual,</li> <li>(d) relates to payments or eligibility for health care in respect of the individual,</li> <li>(e) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the</li> </ul>

	<p>testing or examination of any such body part of bodily substance,</p> <p>(f) is the individual’s health number, or</p> <p>(g) identifies an individual’s substitute decision-maker. [PHIPA Schedule A, section 4.(1)]”</p>
<p><b>Express consent</b></p>	<p><b>Express consent</b> is valid consent given in writing or orally. Express consent is when the patient directly communicates their positive and explicit consent to the doctor or healthcare provider. This is usually done in writing by signing papers. It can also be supported through oral or verbal communication with the doctor (such as saying, “Yes, I consent”). Express consent is not time-limited unless the user withdraws their consent.</p>
<p><b>Implied Consent</b></p>	<p><b>Implied consent</b> occurs through the actions or conduct of the patient rather than direct communication through words. For example, informed consent can be implied from patient’s nodding of the head, or by them showing up at the agreed upon time for surgery. If the patient has prepared themselves for surgery by fasting for the previous 24 hours, this might also serve as proof of implied consent. Implied consent is more difficult to prove than express consent.</p>

## Responsibility

- Georgian, as a health information custodian (HIC), is responsible for the protection of all personal and personal health information within its care.
- The **President and Chief Executive Officer**, through **the Access and Privacy Office**, is accountable for compliance with privacy.
- **Health Care Professionals** employed by Georgian, in accordance with the Regulated Health Professions Acts, and each **Georgian Health and Wellness employee, volunteer, student and agent** is responsible for protecting the personal health information of those seeking health and wellness services. Each of these persons is also responsible for acting in accordance with the policy and procedures outlined in this document.
- **All employees** of Georgian are accountable for protecting any personal information collected, used, accessed, disclosed, retained, or destroyed in the course of performing their duties, and for complying with this and related privacy policies. Users are responsible for personal information about students, faculty and staff as well as any other confidential information that they hold on behalf of the college. Protecting this information is a collaborative effort by faculty, staff, and students. As required under [Information Technology Acceptable Use Procedure](#), Georgian College has published Information Security obligations that are mandatory for all users of electronic information and systems.

## Policy

The Georgian Access Privacy Office is committed to establishing outstanding practices in privacy, confidentiality and data security, to protect the College's personal information and personal health information. The Access and Privacy Office is also dedicated to ensuring high standards of openness, transparency and accountability in matters of access to information.

## Procedures

Due to the sensitive nature of personal information and personal health information, Georgian will reasonably apply the following principles across all aspects of its operation.

Georgian Information and Privacy Policies incorporate the 10 principles provided within the Canadian Standard Association's *Model for the Protection of Personal Information* (Can/CSA-Q830-96), published in March 1996 as a national standard of Canada.

### 1. Accountability

- 1.1 Georgian is responsible for the care and protection of all personal information (PI) and personal health information (PHI) in its custody or control, and for complying with the legislated requirements set out in FIPPA and PHIPA.
- 1.2 Georgian's President and Chief Executive Officer (CEO) is accountable for compliance with FIPPA, PHIPA, and for annual reporting to the Information and Privacy Commissioner of Ontario. The Vice President, External Relations and Enrolment has been delegated the authority to manage compliance on the CEO's behalf and is responsible for reporting to the Board of Governors on all Access and Privacy Office activities.
- 1.3 The Clinical Applications and Privacy Analyst, under the direction of the Manager, IT Security, is accountable for administering the programs, policies, and activities of the Access and Privacy Office, including, but not limited to, establishing policies and procedures to ensure compliance with relevant privacy legislation, conducting audits of privacy practices, investigating and documenting privacy incidents, breaches, and complaints, recommending actions to mediate privacy risks at Georgian, responding to requests for access to PI and PHI, and providing training to staff, faculty, students, health care providers and members of the Georgian community with privacy training.
- 1.4 All employees of Georgian are accountable for protecting any personal information collected, used, accessed, disclosed, retained, or destroyed in the course of performing their duties, and for complying with this and related privacy procedures. Failure to comply may result in disciplinary action.
- 1.5 All Health Care Professionals employed by Georgian, in accordance with the Regulated Health Professions Acts, and each Georgian Health and Wellness employee, volunteer, student and agent has a duty to protect the personal health information of those seeking health and wellness services.

- a) Permission to access personal health information will be granted on a need to know basis with consideration to allow personnel to effectively perform their assigned duties to facilitate quality of client care.
- b) Access can be removed at any time for those who are found to be not in compliance with the Health and Wellness Centre's Information Protection Policies and Procedures.

## 2. Identifying Purposes for the Collection and Use of Personal Information and Personal Health Information

- 2.1 The purposes for which personal information and personal health information is collected will be provided to the individual prior to or at the time the information is collected.
- 2.2 Reasonable efforts will be made to ensure individuals are advised of the purposes for which their personal or personal health information will be used. The purposes will be stated in such a manner that clients can reasonably understand how the information will be used or disclosed.

## 3. Consent

- 3.1 The knowledge and consent (express or implied) of the individual are required for the collection, use, or disclosure of personal information and personal health information, subject to specific exceptions.
- 3.2 Georgian will rely on **express consent** for the collection, use, or disclosure of personal health information within the **Circle of Care**. If an individual is incapable of providing consent, they may designate a substitute decision-maker (SDM) to act on their behalf for the collection, use and disclosure of their personal health information.
- 3.3 Georgian is entitled to assume **implied consent** to the collection, use or disclosure of personal health information within the **Circle of Care** when we can reasonably conclude that consent has been given by an action that has been taken. Generally, this occurs where the purpose for the use of personal health information would be reasonably apparent – for example, when an address is provided through a form or email seeking information, implied consent is provided to Georgian to use that address in order to respond to the request. Georgian will inform the individual of the foreseeable consequences of withholding or withdrawing consent. The withdrawal of consent is not retroactive.
- 3.4 An individual may withdraw consent for the collection, use or disclosure of their information at any time; this is referred to as a "Lock Box". If an individual limits their consent on the sharing of their personal health information, this limited consent should not prohibit or restrict any recording of personal health information that is required by law or by established standards of practice or institutional practice. The Lock box provision will be utilized to advise HIC of withheld information.

#### **4. Limits for Collection of Information**

- 4.1 Georgian will limit the amount and type of personal information and personal health information collected to that which is necessary for the purposes identified. Georgian will not collect, use or disclose personal information or personal health information if other information will serve the purpose of the collection, use or disclosure. Information will be collected by fair and lawful means.

#### **5. Limits for Use, Disclosure, Retention and Destruction of Records**

- 5.1 Personal information and personal health information shall not be used or disclosed for purposes other than for which it was collected, except with the consent of the individual, as required by law or as recognized in the applicable Act.
- 5.2 Personal information and personal health information shall be retained only as long as necessary for the fulfillment of the purposes for which it was collected. Georgian is subject to legislative requirements with respect to retention periods. Personal health information that is no longer required to fulfill the identified purposes will be disposed of in a manner consistent with Bill 31 and/or other legislative requirements.

#### **6. Accuracy**

- 6.1 Georgian shall take reasonable steps to ensure that the personal information and/or personal health information is as accurate, complete and up to date as is necessary for the purposes for which it uses or discloses information.
- 6.2 An individual may challenge the accuracy and completeness of their personal health information. A written request for correction may be submitted by the individual to the Access and Privacy Office.

#### **7. Safeguards**

- 7.1 Personal information and/or personal health information will be protected by security safeguards appropriate to the sensitivity of the information, regardless of the format in which it is stored.

#### **8. Openness**

8.1 Georgian will make readily available to individuals specific information, which is clear and easily understood, about its privacy policies and procedures relating to the management of personal information and/or personal health information.

## 9. Individual Access & Requests for Release of Information

9.1 Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal health information and will be given access to the information, limited to specific exceptions as outlined in the Act.

## 10. Challenging Compliance

10.1 An individual can address a challenge concerning compliance with the above principle to the Access and Privacy Office. All complaints will be investigated and action taken when appropriate including, if necessary, amending Georgian's policies and procedures.

## Related Materials

Current information protection legislation

### Federal legislation

#### ***Personal Information Protection and Electronic Documents Act (PIPEDA), 2000***

<http://laws-lois.justice.gc.ca/eng/acts/P-8.6/>

[http://www.priv.gc.ca/leg\\_c/leg\\_c\\_p\\_e.cfm](http://www.priv.gc.ca/leg_c/leg_c_p_e.cfm)

Canadian Standard Association's *Model for the Protection of Personal Information* (Can/CSA-Q830-96), published in March 1996 as a national standard of Canada.

### Provincial legislation

#### ***Freedom of Information and Protection of Privacy Act, 1990 (FIPPA)***

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90f31\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90f31_e.htm)

#### ***Personal Health Information Protection Act, 2004 (PHIPA)***

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_04p03\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_04p03_e.htm)

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