

PRIVACY OF MINORS, MENTALLY INCAPABLE AND DECEASED INDIVIDUALS

Minors

Mentally Incapable Adults

Deceased Individuals

Minors

Privacy rights may be exercised on behalf of a minor by the minor's guardian if the minor is incapable of exercising those rights.¹ VIU operates under the assumption that all minors enrolled in its undergraduate or graduate programs are capable of exercising their own privacy rights. As a rule, all other minors VIU deals with (e.g. children enrolled in VIU summer camps) should be assumed to be incapable of exercising their own privacy rights.

A minor's guardians are his or her parents, unless somebody else is appointed as guardian by a court. Before exercising privacy rights on behalf of a minor, the guardian must provide the following documentation:

- a. a written request for information, signed by the guardian;
- b. proof of status of the guardian (e.g. birth certificate or court order);
- c. proof of guardian's identity (e.g. government issued ID); and,
- d. if the guardian is a parent, signed authorization of the other parent, with proof of the other parent's identity (or proof of custody if the first parent has sole custody)

Adults who are Mentally Incapable

Privacy rights may be exercised on behalf of a mentally incapable adult by the individual's "representative". A representative may be any of the following:

- a. a committee appointed under the Patients Property Act;
- b. a person acting under a power of attorney;
- c. a litigation guardian; or,
- d. a representative acting under a representation agreement, as defined in the Representation Agreement Act.

A representative must provide the following documentation:

- a. proof that the requester has been appointed as the individual's representative; and ,
- b. proof of requester's identity (e.g. government issued ID).

Deceased Individuals

Deceased individuals have privacy interests, although these interests gradually diminish over time. Privacy rights may be exercised on behalf of a deceased individual by an "appropriate person".

For an adult, an “appropriate person” is:

- a. a committee appointed under the Patients Property Act;
- b. if there is no committee, a personal representative (an executor of a will or an administrator of an estate); and,
- c. if there is no personal representative, the closest relative.

For a minor (an individual under the age of 19), an “appropriate person” is:

- a. a personal representative;
- b. if there is no personal representative, a guardian; and,
- c. if there is no guardian, the closest relative.

Before allowing an “appropriate person” to exercise a deceased individual’s privacy rights, the following documentation must be received:

- a. a written request for information, signed by the requester;
- b. proof of death (e.g. death certificate);
- c. proof of the requester’s position as an “appropriate person”;
- d. proof of requester’s identity (e.g. government issued ID); and,
- e. if the requester is a parent of the deceased, signed authorization of the other parent, with proof of the other parent’s identity (or proof of custody if the requester has sole custody).

There are special rules for granting access to personal information about persons who have been dead for more than 20 years. In these cases, the information may be released for archival or historical purposes.