

**CITATION:** Najafi v. Information and Privacy Commissioner of Ontario, 2026 ONSC 2541  
**DIVISIONAL COURT FILE NO.:** 566/25  
**DATE:** 20260430

**SUPERIOR COURT OF JUSTICE – ONTARIO  
DIVISIONAL COURT**

**RE:** BAHAREH NAJAFI, Applicant/Respondent on the Motion

**AND:**

INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO,  
Respondent/Moving Party

and GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO,  
Respondent

**BEFORE:** Matheson J.

**COUNSEL:** *Self-represented Applicant*

*Linda Hsiao-Chia Chen*, for the Respondent Information and Privacy  
Commissioner of Ontario

*Leora Jackson*, for the Governing Council of the University of Toronto

**HEARD at Toronto:** April 29, 2026, in writing

**ENDORSEMENT**

[1] The Information and Privacy Commissioner of Ontario (IPC) requests a sealing order for a portion of the record of proceedings in this application for judicial review. The University consents. The applicant objects in part, as discussed below.

[2] In the judicial review proceeding, the applicant seeks to quash IPC Order PO-4647. That order was made under the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 (*FIPPA*) in response to the applicant's request for access to certain records of the University of Toronto. The access request was granted except for personal information and two pages of the records, which were found to be protected by exemptions in *FIPPA*.

[3] The IPC seeks a sealing order for only that portion of the record that remained exempt from disclosure after the IPC proceedings were completed. Those records were subject to confidentiality and non-publication obligations in the IPC proceedings. For the order in this

Court, the IPC relies on s. 137(2) of the *Courts of Justice Act*, which permits such an order where the strict prerequisites for an order are met. The IPC has delivered the required motion, on affidavit evidence.

[4] The requested sealing order is limited to sealing the following records:

- (i) two pages of email records between University of Toronto staff in the period between December 15, 2022 to April 25, 2023, which were exempted from disclosure in the IPC proceedings; and
- (ii) unredacted versions of the remaining emails between University of Toronto staff for the period between December 15, 2022 to April 25, 2023, which contain exempted personal information but otherwise have not been exempted from disclosure.

[5] Redacted versions of the emails in subpara. (ii), above, removing the exempted personal information, would form part of the public record of proceedings.

[6] The applicant now submits that she does not object to a sealing order regarding the information that the IPC held was exempt from disclosure in response to her access request, including the specific records and personal information. However, she asks why this further motion is needed when the information was already protected in the IPC proceedings. A further motion in this Court is required to address the documents in the court file: *Law Society of Ontario v. AA*, 2026 ONCA 47, at paras. 239-243.

[7] The applicant also raises a separate issue about the record of proceedings, submitting that it is late. Further, she submits that it may be incomplete for reasons other than the request for a sealing order. The delivery of the record of proceedings was delayed due to the need for a decision on the motion for a sealing order, and apparent confusion about the position of the applicant. The delayed delivery of the record is reasonable in these circumstances.

[8] The applicant anticipates that the record of proceedings will be incomplete. That remains to be seen. Once it is delivered, if there is still an issue that has not been addressed, the applicant may raise that issue in the case management process.

[9] Consent is insufficient to obtain a sealing order. To obtain the sealing order, the IPC must show that: (1) disclosure poses a serious risk to an important public interest; (2) the order is necessary to prevent the serious risk to the identified interest because reasonably alternative measures will not prevent the risk; and, (3) as a matter of proportionality, the benefits of the order outweigh its negative effects: *Law Society of Ontario v. AA*, at para. 177, citing *Sherman Estate v. Donovan*, 2021 SCC 25; at para. 38; citing *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, [2002] 2 S.C.R. 522.

[10] The IPC submits that a sealing order should be granted because it meets the above requirements. I agree for the following reasons:

- (i) the *FIPPA* statutory regime requires non-disclosure of information protected by exemptions in the *Act*;
- (ii) as this Court has repeatedly found in judicial review of IPC orders, public disclosure of the exempted records would predetermine the judicial review and render it moot without any adjudication of whether the challenge to the IPC order was well-founded: see, e.g., *Fuda v. Ontario (Information and Privacy Commissioner)* (2003), 65 O.R. (3d) 701 (Div. Ct.), at paras. 11 and 13, the cases cited therein; *Joseph et al. v. Information and Privacy Commissioner of Ontario et al.*, 2023 ONSC 995;
- (iii) there is an important public interest in having a fair determination of the issues in an application for judicial review of a challenged IPC order without rendering it moot before it is heard;
- (iv) the proposed order is very narrow, applying to only the two pages that remain at issue and exempted personal information – the rest of the record of proceedings will be public; and,
- (v) the benefits of the requested order outweigh its negative effects – the public interest in preventing the predetermination of the legal issues that are at stake outweighs the public interest in open and accessible court proceedings.

[11] A sealing order is granted. There shall be no order as to costs.

[12] The parties shall submit their proposed schedules for the exchange of the court documents on this application for judicial review to the case management judge so that a new schedule can be set for those steps.

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Matheson J.

**Date:** April 30, 2026