

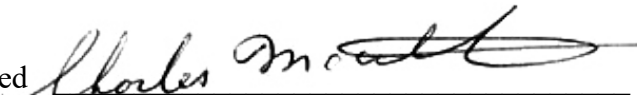
YUULU?IL?ATH GOVERNMENT

**FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY ACT**

**YFNS 77/2022**

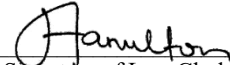


This law enacted on September 12, 2022

Signed   
Charles McCarthy, President of the  
Yuulu?il?ath First Nation

DEPOSITED IN THE  
REGISTRY OF LAWS AND  
OFFICIAL RECORDS

ON 12/SEP/2022

  
Signature of Law Clerk



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## PREAMBLE

Through the act of governing and as a treaty first nation, Yuulu?i?ath assume the responsibility of providing responsible, transparent and accountable government, blending hereditary and modern-day governing systems. In doing so, we honour our past and embrace the future ensuring the continued existence of Yuulu?i?ath as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

It is the desire of Yuulu?i?ath to govern in an open and transparent manner and to promote the principles of openness and transparency by providing a right of access to all Yuulu?i?ath records, subject to certain necessary, specific and limited exceptions. Yuulu?i?ath also acknowledge the need to balance the right of access with the right to personal privacy and pledge to balance those rights in a manner which is respectful to both the person requesting the information and the person the information is about.

Yuulu?i?ath adopt this Act based on these values.



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## PART 1 - INTRODUCTORY PROVISIONS

### Short title

- 1.1 This Act may be cited as the Freedom of Information and Protection of Privacy Act, YFNS 77/2022.

### Executive oversight

- 1.2 The member of the Executive holding the community services portfolio is responsible for the executive oversight of this Act.

### Application

- 1.3 (a) This Act governs
- (i) access to Yuulu?il?ath records, and
  - (ii) subject to subsection (c), the collection, use and disclosure of personal information by a Yuulu?il?ath institution or service provider.
- (b) For certainty, this Act does not apply to a record of a service provider that is not related to the provision of services for a Yuulu?il?ath institution.
- (c) Part 3 applies to a service provider only in relation to the provision of services for a Yuulu?il?ath institution.

### Definitions

- 1.4 In this Act,

“applicant” means, in relation to a request for access or a request for correction of personal information, the person who made the request;

“associate” means, in relation to a service provider,

- (a) an officer, director or partner of the service provider,
- (b) an affiliate of the service provider,
- (c) a subcontractor, or further sub-subcontractor, of the service provider or an affiliate of the service provider, or
- (d) an employee, officer, director or partner of an affiliate referred to in paragraph (b) or of a subcontractor or further sub-subcontractor referred to in paragraph (c),

to or through whom access is made available to personal information that is

(e) subject to Part 3, and

(f) held because of the service provider's status as a service provider;

“business contact information” means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email and business fax number of the individual;

“common or integrated program or activity” means a program or activity delivered

(a) collaboratively by a Yuulu?il?ath institution and one or more other bodies or agencies, or

(b) by a Yuulu?il?ath institution on behalf of one or more other bodies or agencies;

“director” means the director of operations;

“law enforcement” means

(a) policing,

(b) investigations that lead or could lead to a penalty or sanction being imposed, or

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

“personal information” means recorded information about an identifiable individual other than business contact information;

“request for access” means a request under section 2.2;

“request for correction of personal information” means a request under section 3.4;

“service provider” means a person retained under a contract to perform services for a Yuulu?il?ath institution;

“third party” means, in relation to a request for access or a request for correction of personal information, any person other than

(a) the applicant, or

(b) a Yuulu?il?ath institution;

“Yuulu?il?ath record” means

(a) information in the custody or under the control of a Yuulu?il?ath institution, or



- (b) a record of a service provider that is related to the provision of services for a Yuulu?il?ath institution.



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## PART 2 - FREEDOM OF INFORMATION

### Right of access

- 2.1 (a) A person who makes a request for access has a right of access to any Yuulu?il?ath record.
- (b) The right of access under subsection (a) does not extend to information excepted from disclosure under section 2.9, but if that information can reasonably be severed from a record, the applicant has a right of access to the remainder of the record.

### Request for access

- 2.2 (a) To obtain access to a Yuulu?il?ath record, a person must submit a written request to the director that
- (i) provides sufficient detail to enable the director, with reasonable effort, to identify the record sought, and
- (ii) if the applicant is acting on behalf of another person, provides written proof of the applicant's authority to make the request.
- (b) The applicant may
- (i) ask for a copy of the record, or
- (ii) ask to examine the record.

### Duty to assist applicants

- 2.3 (a) The director must make every reasonable effort to assist an applicant and to respond without delay to each applicant openly, accurately and completely.
- (b) The director must create a record for an applicant if
- (i) the record can be created by a Yuulu?il?ath government employee using Yuulu?il?ath government equipment from a machine readable Yuulu?il?ath record, and
- (ii) creating the record would not unreasonably interfere with the operations of the Yuulu?il?ath institution or service provider, as applicable.

### Director conflict of interest

- 2.4 If a request for access relates to a decision, act or omission of the director or seeks personal information of the director,

- (a) the director must not exercise any power or perform any duty in relation to that request, and
- (b) the law clerk or another person designated by the Executive may exercise any power and must perform any duty of the director in relation to that request.

### **Time limit for response**

- 2.5**
- (a) The director must respond to a request for access not later than 30 days after receiving the request.
  - (b) The director is not required to comply with the time limit in subsection (a) if the time limit is extended under section 2.8.

### **Contents of response**

- 2.6**
- (a) In a response under section 2.5, the director must tell the applicant
    - (i) whether or not the applicant is entitled to access the record or part of the record,
    - (ii) if the applicant is entitled to access the record or part of the record, where, when and how access will be given, and
    - (iii) if access to the record or part of the record is refused,
      - (A) the reasons for the refusal and the provision of this Act on which the refusal is based,
      - (B) the contact information of the director or a Yuulu?il?ath official who can answer the applicant's questions about the refusal, and
      - (C) that the applicant may request a review of the refusal under section 4.1.
  - (b) Despite subsection (a)(iii)(A), the director may refuse to confirm or deny the existence of a record if that record contains
    - (i) information described in section 2.9(b)(iii), or
    - (ii) personal information of a third party if disclosure of the existence of that information would be an unreasonable invasion of the third party's personal privacy.

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### Form of access

- 2.7** (a) If an applicant is told under section 2.5 that access will be given, the director must comply with subsection (b) or (c).
- (b) If the applicant has asked for a copy of the record under section 2.3(b)(i) and the record can reasonably be reproduced, then the director must provide with the response under section 2.5.
- (i) a copy of the record or part of the record, in physical or electronic form as the director sees fit, or
- (ii) reasons for the delay in providing the record.
- (c) If the applicant has asked to examine the record under section 2.2(b)(ii), or if a record requested under section 2.2(b)(i) cannot reasonably be reproduced, then the applicant must be permitted to examine the record or part of the record at the Yuulu?il?ath administrative office during normal business hours.

### Extending the time limit for response

- 2.8** (a) The director may extend the time limit for responding to a request for
- (i) a period of up to 30 days, or
- (ii) upon the approval of the Executive, a period of longer than 30 days
- if one or more of the following apply:
- (iii) the applicant does not give enough detail to enable the director to identify a requested record;
- (iv) a large number of records are requested or an extensive search is required to locate a requested record and meeting the time limit would unreasonably interfere with the operations of the Yuulu?il?ath institution or service provider, as applicable;
- (v) more time is needed to consult with a third party before the director can decide whether or not to give the applicant access to a requested record; or
- (vi) the applicant has consented in writing to the extension.
- (b) If the time for responding to a request is extended under this section, the director must tell the applicant
- (i) the reason for the extension,

- (ii) when a response can be expected, and
- (iii) that the applicant may request a review of the extension under section 4.1.

### Exceptions to disclosure

- 2.9** (a) In this section, “abortion services” means lawful medical services for the termination of a pregnancy.
- (b) The director may refuse to disclose information to an applicant if that disclosure would, or could reasonably be expected to,
- (i) harm the legislative processes of the Legislature,
  - (ii) harm the deliberative processes of a Yuulu?il?ath institution,
  - (iii) harm a law enforcement matter, including law enforcement by an external enforcement agency,
  - (iv) facilitate the commission of an offence under an enactment of the Yuulu?il?ath government, Canada or British Columbia,
  - (v) reveal information that is subject to solicitor-client privilege,
  - (vi) harm intergovernmental relations or negotiations,
  - (vii) harm the financial or economic interests of a Yuulu?il?ath institution,
  - (viii) harm Yuulu?il?ath language, culture, heritage, or traditional knowledge,
  - (ix) harm the environment, including harming or interfering with the protection of an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates,
  - (x) harm individual or public safety, or
  - (xi) harm the business interests of a third party.
- (c) The director must refuse to disclose information to an applicant that relates to the provision of abortion services, unless the information relates to abortion services that were received by the applicant.
- (d) The director must refuse to disclose information to an applicant if that disclosure would be an unreasonable invasion of a third party’s personal privacy, including the personal privacy of a deceased individual.

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- (e) In determining under subsection (d) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the director must consider all the relevant circumstances, including whether
- (i) the disclosure is desirable for the purpose of subjecting the activities of a Yuulu?il?ath institution to public scrutiny,
  - (ii) the disclosure is likely to promote public health and safety or to promote the protection of the environment,
  - (iii) the personal information is relevant to a fair determination of the applicant's rights,
  - (iv) the third party will be exposed unfairly to financial or other harm,
  - (v) the personal information has been supplied in confidence,
  - (vi) the personal information is likely to be inaccurate or unreliable,
  - (vii) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and
  - (viii) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.
- (f) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if
- (i) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,
  - (ii) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation,
  - (iii) the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels,
  - (iv) the personal information relates to employment, occupational or educational history,
  - (v) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax,

- (vi) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,
  - (vii) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations about the third party,
  - (viii) the disclosure would reveal
    - (A) the identity of a third party who supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation, or
    - (B) the content of a personal recommendation or evaluation, character reference or personnel evaluation supplied, in confidence, by a third party, if the applicant could reasonably be expected to know the identity of the third party,
  - (ix) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations, or
  - (x) the personal information consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means.
- (g) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if
- (i) the third party has consented in writing to or requested the disclosure,
  - (ii) there are compelling circumstances affecting anyone's health or safety and notice of disclosure is mailed to the last known address of the third party,
  - (iii) the disclosure is authorized by a Yuulu?il?ath enactment or an enactment of British Columbia or Canada,
  - (iv) the disclosure is for a research purpose, including statistical research,
  - (v) the information is about the third party's position, functions or remuneration as a Yuulu?il?ath official, or
  - (vi) the disclosure reveals financial and other details of a contract to supply goods or services to a Yuulu?il?ath institution.



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### Notice to third parties

- 2.10** (a) If the director intends to give access to a record that the director has reason to believe contains information that might be excepted from disclosure under section 2.9(b)(xi) or 2.9(d), the director must give the third party a written notice under subsection (c).
- (b) If the director does not intend to give access to a record that the director has reason to believe contains information that might be excepted from disclosure under section 2.9(b)(xi) or 2.9(d), the director may give the third party a written notice under subsection (c).
- (c) The notice must
- (i) state that a request has been made by an applicant for access to a record containing information the disclosure of which may affect the business interests or invade the personal privacy of the third party,
  - (ii) describe the contents of the record, and
  - (iii) state that, within 20 days after the notice is given, the third party may consent in writing to the disclosure or may make written representations to the director explaining why the information should not be disclosed.
- (d) When notice is given under subsection (a), the director must also give the applicant a notice stating that
- (i) the record requested by the applicant contains information the disclosure of which may affect the business interests or invade the personal privacy of a third party,
  - (ii) the third party is being given an opportunity to make representations concerning disclosure, and
  - (iii) the director will make a decision within 30 days about whether or not to give the applicant access to the record.

### Information must be disclosed if in the public interest

- 2.11** (a) Despite any other provision of this Act, the director must, without delay and, if required under section 2.12 after consulting with the applicable external enforcement agency in accordance with section 2.12, disclose information in the custody or under the control of the Yuulu?il?ath government to
- (i) the public,
  - (ii) an affected group of people, or

- (iii) an applicant  
if that disclosure is clearly in the public interest.
- (b) Subject to subsection (c), before disclosing information under subsection (a), the director must notify any third party to whom the information relates.
- (c) If it is not practicable to comply with subsection (b), the director must mail notice of the disclosure to the last known address of the third party.

### **Consultation with external enforcement agencies**

- 2.12** If the disclosure of information is about a law enforcement matter involving an external enforcement agency, the director must, before determining whether or not to disclose all or any portion of that information under this Act,
- (a) provide notice of the applicable request for access or proposed disclosure under section 2.11 to that external enforcement agency in sufficient detail to permit that external enforcement agency to prepare their views on the request or proposed disclosure, and
  - (b) give full and fair consideration to any comments or recommendations provided by that external enforcement agency in relation to the request or proposed disclosure.

### **Power to disregard a request**

- 2.13** The director may disregard a request for access that
- (a) would unreasonably interfere with the operations of a Yuulu?il?ath institution or service provider, as applicable, because of the repetitious or broad nature of the request, or
  - (b) is frivolous or vexatious.

### **Power to require payment upfront**

- 2.14**
- (a) The director may require the applicant to pay a prescribed portion of the estimated fee for a request for access at the prescribed times.
  - (b) The director must deliver to the applicant in accordance with Yuulu?il?ath law notice of any payment required under subsection (a).
  - (c) The time limit under section 2.5 or 2.8, as applicable, stops running between the date a notice is delivered under subsection (b) and the date the applicant makes the required payment.

- (d) For certainty, if following the delivery of a response under section 2.5, the director determines that the amount collected under this section, if any, is greater than the prescribed fee for the request, the Yuulu?il?ath government must refund the applicant the amount of the overpayment.

**Duty to cooperate**

- 2.15** If requested, a Yuulu?il?ath official or an employee or associate of a service provider must cooperate with the director respecting a request for access and supply to the director any information relating to the request for access that the director may request.



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## PART 3 - PROTECTION OF PRIVACY

### Purposes for which personal information may be collected

- 3.1** No personal information may be collected by or for a Yuulu?il?ath institution or service provider unless the collection of that information is
- (a) necessary for the purpose of planning, delivering or evaluating a program, service or activity of a Yuulu?il?ath institution,
  - (b) for the purpose of law enforcement,
  - (c) necessary for the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur,
  - (d) by observation at a presentation, ceremony, performance, sports meet or similar event
    - (i) at which the individual voluntarily appears, and
    - (ii) that is open to the public, or
  - (e) expressly authorized under another Yuulu?il?ath enactment.

### How personal information must be collected

- 3.2** (a) Each Yuulu?il?ath institution and service provider must collect personal information or cause personal information to be collected directly from the individual the information is about unless
- (i) another method of collection is authorized by
    - (A) that individual, or
    - (B) another Yuulu?il?ath enactment,
  - (ii) the collection of the information is necessary for the medical treatment of an individual and it is not possible to
    - (A) collect the information directly from that individual, or
    - (B) obtain authority for another method of collection under paragraph (i)(A),
  - (iii) the information may be disclosed to the Yuulu?il?ath institution or service provider under section 3.6,
  - (iv) the information is collected for the purpose of

- (A) determining the suitability of an individual for an honour or award, including an honorary degree, scholarship, prize or bursary,
  - (B) a proceeding before a court or a judicial or quasi-judicial tribunal,
  - (C) collecting a debt or fine,
  - (D) making a payment,
  - (E) law enforcement, or
  - (F) reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur, or
- (v) the information is collected from a body disclosing it in accordance with a provision of a treaty, arrangement or written agreement that
- (A) authorizes or requires the disclosure, and
  - (B) is made under a Yuulu?i?ath enactment or an enactment of British Columbia or Canada;
- (vi) the collection of the information is necessary for delivering or evaluating a common or integrated program or activity with the body that provides the information;
- (vii) the information is transferred from another Yuulu?i?ath institution or service provider; or
- (viii) the information is about an employee and the collection of the information is necessary for the purposes of managing or terminating an employment relationship between the employee and the Yuulu?i?ath institution or service provider, as applicable.
- (b) Each Yuulu?i?ath institution and service provider must ensure that an individual from whom it collects personal information or causes personal information to be collected is told
- (i) the purpose for collecting it,
  - (ii) the legal authority for collecting it, and
  - (iii) who can answer any questions the individual may have about its collection.
- (c) A Yuulu?i?ath institution or service provider is not required to comply with subsection (b) if

- (i) the information is for the purpose of law enforcement,
  - (ii) the Executive excuses the Yuulu?il?ath institution or service provider, as applicable, from complying with that subsection because doing so would
    - (A) result in the collection of inaccurate information, or
    - (B) defeat the purpose or prejudice the use for which the information is collected,
  - (iii) the information
    - (A) is not required, under subsection (a), to be collected directly from the individual the information is about, and
    - (B) is not collected directly from the individual the information is about, or
  - (iv) the information is collected by observation at a presentation, ceremony, performance, sports meet or similar event
    - (A) at which the individual voluntarily appears, and
    - (B) that is open to the public.
- (d) A Yuulu?il?ath institution or service provider must notify an employee that it will be collecting personal information under subsection (a)(viii) unless it is reasonable to expect that the notification would compromise
- (i) the availability or the accuracy of the information, or
  - (ii) an investigation or a proceeding related to the employment of the employee.

### **Accuracy of personal information**

#### **3.3 If**

- (a) an individual's personal information is in the custody or under the control of a Yuulu?il?ath institution or service provider, and
- (b) the personal information will be used by or on behalf of the Yuulu?il?ath institution or service provider to make a decision or recommendation that directly affects the individual,

the Yuulu?il?ath institution or service provider, as applicable, must make reasonable efforts to ensure the information is accurate and complete.

**Right to request correction of personal information**

- 3.4** (a) An individual who believes there is an error or omission in his or her personal information may, by submitting a written request to the director, request that such information be corrected.
- (b) Upon receiving a request under subsection (a), the director must correct the individual's personal information if, in the director's reasonable opinion, there is an error or omission in such information.
- (c) The director must respond to each request under subsection (a) not later than 60 days after receiving the request.
- (d) In a response under section (c), the director must tell the applicant
- (i) whether or not the applicant's personal information has been changed, and
  - (ii) if the director refuses to change the applicant's personal information,
    - (A) the reasons for the refusal, and
    - (B) that the applicant may request a review of the refusal under section 4.1.

**Use of personal information**

- 3.5** A Yuulu?il?ath institution or service provider may use personal information in its custody or under its control only
- (a) for the purpose for which that information was obtained or compiled, or for a use consistent with that purpose,
  - (b) if the individual the information is about has identified the information and has consented to the use, or
  - (c) for a purpose for which the information may be disclosed under section 3.6.

**Disclosure of personal information**

- 3.6** (a) A Yuulu?il?ath institution or service provider may disclose personal information in its custody or under its control only in the following circumstances:
- (i) for the purpose for which that information was obtained or compiled, or for a use consistent with that purpose;
  - (ii) if the individual the information is about has identified the information and has consented to the disclosure;



- (iii) in accordance with
  - (A) Part 2,
  - (B) another Yuulu?il?ath enactment, or
  - (C) an enactment of British Columbia or Canada;
- (iv) in accordance with a provision of a treaty, arrangement or written agreement that
  - (A) authorizes or requires its disclosure, and
  - (B) is made under a Yuulu?il?ath enactment or an enactment of British Columbia or Canada;
- (v) to comply with a subpoena, warrant or order issued or made by a court, person or body in Canada with jurisdiction to compel production of information;
- (vi) if the director determines that compelling circumstances that affect anyone's health or safety exist;
- (vii) for the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur;
- (viii) to enable the next of kin or a friend of an injured, ill or deceased individual to be contacted;
- (ix) to another Yuulu?il?ath institution or service provider, or to a law enforcement agency in Canada, to assist in a specific investigation
  - (A) undertaken with a view to a law enforcement proceeding, or
  - (B) from which a law enforcement proceeding is likely to result;
- (x) if the information was collected by observation at a presentation, ceremony, performance, sports meet or similar event
  - (A) at which the individual the information is about appeared voluntarily, and
  - (B) that was open to the public;
- (xi) if the information
  - (A) was disclosed on social media by the individual the information is about,

- (B) was obtained or compiled by the Yuulu?il?ath institution or service provider for the purpose of enabling it to engage individuals in public discussion or promotion respecting proposed or existing initiatives, laws, policies, programs or activities of a Yuulu?il?ath institution, and
  - (C) is disclosed for a use that is consistent with the purpose described in subparagraph (B);
- (xii) to a Yuulu?il?ath official or an employee or associate of a service provider, if the information is necessary for
- (A) the performance of the duties or exercise of the powers of that Yuulu?il?ath official, employee or associate,
  - (B) the purpose of planning, delivering or evaluating a program, service or activity of a Yuulu?il?ath institution, or
  - (C) the delivery of a common or integrated program or activity;
- (xiii) to an auditor of the Yuulu?il?ath institution or service provider for audit purposes; or
- (xiv) to legal counsel for the Yuulu?il?ath institution or service provider
- (A) for the purpose of preparing or obtaining legal advice for the Yuulu?il?ath institution or service provider, as applicable, or
  - (B) for use in civil proceedings involving a Yuulu?il?ath institution or service provider.
- (b) Despite subsection (a), upon the approval of the Executive a Yuulu?il?ath institution or service provider may disclose personal information in its custody or under its control if
- (i) the disclosure is for a research purpose, including statistical research,
  - (ii) the disclosure is clearly in the interest of the Yuulu?il?ath First Nation, and
  - (iii) there is no alternative to disclosing the information in individually identifiable form.

### Definition of consistent purpose

**3.7** For the purposes of sections 3.5(a) and 3.6(a)(i), the use of personal information is consistent with the purpose for which the information was obtained or compiled if the use

- (a) has a reasonable and direct connection to that purpose, and
- (b) is necessary for carrying out the duties of, or for operating a program, service or activity of, the Yuulu?i?ath institution or service provider that uses or discloses the information or causes the information to be used or disclosed.

### **Protection of personal information**

**3.8** Each Yuulu?i?ath institution and service provider must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized collection, use, disclosure or disposal.

### **Whistle-blower protection**

**3.9** A Yuulu?i?ath institution or service provider must not dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny that employee a benefit, because

- (a) the employee, acting in good faith and on the basis of reasonable belief, has disclosed to the director that the Yuulu?i?ath institution or service provider, or any other person, has contravened or is about to contravene this Act,
- (b) the employee, acting in good faith and based on reasonable belief, has done or stated an intention of doing anything that is required to be done to avoid having any person contravene this Act,
- (c) the employee, acting in good faith and based on reasonable belief, has refused to do or stated an intention of refusing to do anything that is in contravention of this Act, or
- (d) the Yuulu?i?ath institution or service provider believes that an employee will do anything described in subsections (a), (b), or (c).

### **Notification of unauthorized disclosure**

**3.10** A Yuulu?i?ath official or an employee or associate of a service provider who knows that there has been an unauthorized disclosure of personal information that:

- (a) is in the custody or under the control of a Yuulu?i?ath institution or
- (b) relates to the provision of services for a Yuulu?i?ath institution and is in the custody or under the control of a service provider

must immediately notify the director.

**Notification of privacy breach**

- 3.11** (a) In this section, “privacy breach” means the theft or loss, or the collection, use or disclosure that is not authorized by this Part, of personal information that
- (i) is in the custody or under the control of a Yuulu?il?ath institution or
  - (ii) relates to the provision of services for a Yuulu?il?ath institution and is in the custody or under the control of a service provider.
- (b) Subject to subsection (c), if a privacy breach occurs, the director must, without unreasonable delay, notify an affected individual if the privacy breach could reasonably be expected to result in significant harm to the individual, including identity theft or significant
- (i) bodily harm,
  - (ii) humiliation,
  - (iii) damage to reputation or relationships,
  - (iv) loss of employment, business or professional opportunities,
  - (v) financial loss,
  - (vi) negative impact on a credit record, or
  - (vii) damage to, or loss of, property.
- (c) The director is not required to notify an affected individual under subsection (b) if notification could reasonably be expected to
- (i) result in immediate and grave harm to the individual’s safety or physical or mental health, or
  - (ii) threaten another individual’s safety or physical or mental health.

**Retention of personal information**

- 3.12** If an individual’s personal information
- (a) is in the custody or under the control of a Yuulu?il?ath institution or service provider, and
  - (b) is used by on behalf of the Yuulu?il?ath institution or service provider to make a decision that directly affects the individual,

the Yuulu?il?ath institution or service provider, as applicable, must ensure that the personal information is retained for at least one year after being used so that the affected individual has a reasonable opportunity to obtain access to that personal information.



## PART 4 - RIGHT OF REVIEW

### Right of review

- 4.1 A person who makes a request for access or a request for correction of personal information may request a review by the Administrative Decisions Review Board of any decision, act or omission of the director, or if section 2.4 applies the law clerk, related to that request.





## PART 5 - GENERAL PROVISIONS

### Regulations

- 5.1** (a) The Executive may make regulations that it considers necessary or advisable for the purposes under this Act.
- (b) Without limiting subsection (a), the Executive may make regulations in relation to
- (i) the retention of Yuulu?il?ath records, and
  - (ii) fees for copies and other services provided in relation to Yuulu?il?ath records.

### Offences

- 5.2** (a) A person must not willfully do any of the following:
- (i) make a false statement to, or mislead or attempt to mislead, the Executive, the director or any other individual in the performance of his or her duties or exercise of his or her powers under this Act;
  - (ii) obstruct the Executive, the director or any other individual in the performance of his or her duties or the exercise of his or her powers under this Act;
  - (iii) conceal, destroy or alter any record to avoid complying with a request for access to the record.
- (b) A Yuulu?il?ath official must not willfully do any of the following:
- (i) collect, use or disclose personal information except as authorized by this Act;
  - (ii) fail to notify the director of unauthorized disclosure as required by section 3.10.
- (c) A service provider must not willfully do any of the following in the course of providing services for a Yuulu?il?ath institution:
- (i) collect, use or disclose personal information except as authorized by this Act;
  - (ii) dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny the employee a benefit, because the employee has done, or the employer believes that the employee will do, anything described in section 3.9(a) or 3.9(b).

- (d) An employee or associate of a service provider must not willfully do any of the following in the course of providing services for a Yuulu?il?ath institution:
  - (i) collect, use or disclose personal information except as authorized by this Act;
  - (ii) fail to notify the director of unauthorized disclosure as required by section 3.10.
- (e) A service provider commits an offence if an employee or associate of the service provider commits any of the offences under subsection (d).
- (f) It is a defence to a charge under subsections (c), (d) and (e) if the person charged demonstrates that the person exercised due diligence to avoid committing the offence.
- (g) A person who contravenes subsections (a), (b), (c), (d) or (e) commits an offence and is liable, on summary conviction, to a fine of up to \$10,000.

**Repeal**

**5.3** The Freedom of Information and Protection of Privacy Act, YFNS 11/2011 is repealed.

**Commencement**

**5.4** This Act comes into force on the date it is enacted.