

COURT OF APPEAL OF ALBERTA

Form AP-3

[Rule 14.53]

COURT OF APPEAL FILE NUMBER: 2401-0254AC

TRIAL COURT FILE NUMBER: 2201-10658

REGISTRY OFFICE: CALGARY

Registrar's Stamp



APPLICANTS:

THE FACULTY ASSOCIATION OF
THE UNIVERSITY OF CALGARY,
CANADIAN ASSOCIATION OF
UNIVERSITY TEACHERS and
CANADIAN ASSOCIATION OF
LAW TEACHERS

STATUS ON APPEAL:

PROPOSED JOINT INTEVENORS

RESPONDENT:

ALBERTA (INFORMATION AND
PRIVACY COMMISSIONER)

STATUS ON APPEAL:

APPELLANT

RESPONDENT:

GOVERNORS OF THE
UNIVERSITY OF CALGARY

STATUS ON APPEAL:

RESPONDENT

DOCUMENT:

**JOINT APPLICATION FOR INTERVENER
STATUS**

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NOTICE TO RESPONDENTS:

**Alberta (Information and Privacy Commissioner)
(Appellant on Appeal)
Governors of University of Calgary (Respondent
on Appeal)**

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rule 14.41 and 14.43)

NOTICE TO RESPONDENTS:

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date:	To be determined
Time:	To be determined
Where:	Court of Appeal, Calgary
Before:	A single judge of the Court of Appeal (Rule 14.37)

Nature of Application and Relief Sought:

1. The Faculty Association of the University of Calgary (the “Faculty Association”), the Canadian Association of University Teachers (“CAUT”), and the Canadian Association of Law Teachers/ L’Association Canadienne des Professeurs de Droit (“CALT”) (together the “Proposed Interveners”), are applying to be joint interveners in this matter.
2. The Proposed Interveners seek an order:
 - a. Granting them leave to intervene in this appeal;
 - b. Allowing them to file one joint factum of no more than 30 pages, to be filed on September 15, 2025;
 - c. Allowing them to make oral submissions not exceeding 15 minutes, or a time this Honourable Court deems appropriate in the exercise of its discretion; and
 - d. Providing that no costs be awarded for or against them.

Grounds for making this application:

3. This appeal raises legal issues regarding the meaning of “teaching materials” and “research information” as those terms are used in the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, ss 4(1)(h) and 4(1)(i); and regarding the meaning and importance of academic freedom including whether and the extent

to which an academic's participation in social advocacy or "activism" can or does fall within the ambit of academic freedom.

4. Teaching and research exemptions exist in access to information legislation across the country. This appeal will be precedential not only for Albertan academics, but for those in other Canadian jurisdictions.
5. Together, the Proposed Intervenors have significant insight, expertise and experience with respect to these issues. The Proposed Intervenors and their members will also be affected by any outcome of this appeal and therefore have a direct interest in this matter.
6. Pursuant to the *Post-secondary Learning Act*, SA 2003, c P-19.5, the Faculty Association is the association of academic staff members at the University of Calgary. The Faculty Association represents approximately 2,543 academic staff members at the University of Calgary. The outcome in this appeal will directly impact the rights of the Faculty Association's members, such that the Faculty Association has a substantial interest in this appeal and the issues it raises.
7. The Faculty Association has expertise and experience in promoting and protecting the interests of academic staff, particularly with regards to their academic freedom, intellectual independence, and privacy rights. The parties to the appeal do not represent the Faculty Association's views.
8. CAUT is a national federation of university and college faculty associations that was founded in 1951. It currently represents the interests of about 75,000 teachers, librarians, researchers and other academic professionals through their memberships in their local faculty associations. CAUT unites academic professionals across Canada to advocate for fair employment and quality post-secondary education. The issues in this appeal will impact the rights of CAUT's membership, and as such, it has a substantial interest in this appeal.
9. CAUT is widely recognized across Canada for its expertise on academic freedom; the promotion and protection of academic freedom is central to CAUT's mission. To that end, it has a long history of raising public awareness on the topic of academic freedom through courses, workshops, and conferences, and it routinely publishes articles, reports and investigations into threats against academic

freedom. CAUT is thus uniquely positioned to provide insight regarding academic freedom and the engagement of academia in society.

10. CALT is a national association which was officially founded in 1951 to promote the interests of law teachers across Canada, through contributing to the development, promotion and improvement of law and legal education including the creation and dissemination of knowledge, research, and best practices in law and legal education. CALT has approximately 150 members, comprised of full-time faculty, sessional instructors, contract faculty, graduate students and postdoctoral researchers. The outcome of this appeal will impact CALT members, such that it has a particular interest in this matter.
11. CALT has a unique perspective regarding the participation of legal academics in the practice of law, public advocacy, and community initiatives, and has specialized insight into the ways these activities dovetail with law professors' responsibilities in a modern democracy. CALT's expertise derives from its legal scholarship and research regarding academic freedom, as well as its members' professional and lived experiences at the intersection of academia and participation and community engagement in the study of law. CALT is thus well-suited and uniquely poised to contribute fresh and useful analytical perspectives to this Court regarding academic freedom and contemporary forms of legal research.
12. The issues raised in this appeal transcend the particulars of this case and the Court's decision will affect the law regarding academic freedom protections, access to information, and the intellectual property of academics across Canada. The Proposed Interveners are particularly interested in this appeal because of the precedent it will set regarding academic freedom as it relates to community engagement activities and social advocacy. To date, there is no Canadian appellate court decision that speaks directly to these issues.
13. The Proposed Intervenor seeks intervenor status to address the following issues which arise from the Honourable Justice Devlin's decision on appeal, and which the University of Calgary raises in its factum but neither party fully addresses:
 - a. whether "teaching materials" and "research information" exceptions in s 4(1)(h) and (i) of *FOIPPA* must be interpreted broadly and based on their foundation in academic freedom;

- b. whether distinguishing between “participation in activism” and the “study of activism” is a sound analytical approach to circumscribe the type of work which is captured by the “teaching materials” and “research information” exceptions;
 - c. whether “teaching materials” and “research information” exceptions may apply to recently developed forms of teaching and legal research, such as research which is participatory in nature, in a manner consistent with FOIPPA’s underlying purpose; and
 - d. what is an appropriate analytical framework to determine whether the “teaching materials” and “research information” exceptions apply to the particular academic activity, or alleged “activism”, at issue.
14. The Proposed Interveners’ special insight and experience will assist the Court in the resolution of these precedent-setting issues. Without their participation, the interests of the Proposed Interveners, which will be specially affected by the outcome of this appeal, may not be fully protected by the parties.

Material or evidence to be relied on:

- 15. Affidavits of Kent Donlevy, David Robinson and Graham Reynolds filed with this application and sworn in May 2025;
- 16. The Memorandum of Argument of the Proposed Interveners; and
- 17. Such further and other material as counsel may advise and this Court may permit.

Applicable Acts, regulations and rules:

- 18. Part 14, Divisions 4 and 5, of the *Alberta Rules of Court*, Alta Reg 124/2010, particularly rules 14.37, 14.40, 14.53, 14.54, and 14.58.
- 19. Sections 4(1)(h) and 4(1)(i) of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25.

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