

Contents

- 2016-2018 Fiscal Years in Review** 2
- Amendments to the ATIPP Act 2
- Privacy Impact Assessments 3
- Municipalities..... 3
- ATIPP Training 3
- 2016-2017 Access Request Statistics** 4
- 2017-2018 Access Request Statistics** 5
- Total Number of Access to Information Requests by Fiscal Year**..... 7
- ATIPP Training Statistics 2016-2018**..... 8
- Recommendations from the 2016-2017 and 2017-2018 Annual Report of the Information and Privacy Commissioner** 10
- 1. Communicating Personal Health Information..... 10
- 2. Updating and Modernization of the ATIPP Act 10
- 3. Policy Review 11
- 4. Focus on File Management..... 12
- 5. Dedicated ATIPP Coordinators 13
- 6. Lack of Privacy Breaches Reported 14
- 7. Education 15

The Department of Executive and Intergovernmental Affairs (EIA) tables an annual report in the Legislative Assembly on the administration of the *Access to Information and Protection of Privacy (ATIPP) Act*. Although this report is not a statutory requirement, it is important that the government is accountable to the public regarding this function. Statistics on the administration of the ATIPP Act are recorded individually by each public body before the information is compiled centrally in the ATIPP office within EIA.

Unfortunately, due to the increased workload of the EIA ATIPP Office, as well as the workload of departmental coordinators, in the past two fiscal years, it was not possible to compile all statistics and information needed in time to write and table an annual report. However, you will see from this report that a lot of work was completed and the administration of the Act has been moved forward.

2016-2018 Fiscal Years in Review

Amendments to the ATIPP Act

In 2017 the Department of EIA worked closely with all public bodies and key stakeholders to make significant amendments to the Act. The amendments proposed were to address gaps in our legislation, current trends in access and privacy throughout the country or to generally improve the services provided to the public. These changes could not be adequately addressed through policy development alone.

The amendments made to the Act specifically address the following:

- Anonymity for applicants placing requests under the ATIPP Act.
- Protection of employees, third parties and government procedures through discretionary exemptions, specifically as they relate to employee relations information.
- Provision to ensure the protection of highly sensitive information including solicitor client information and information found in coroner's reports.
- Stronger privacy analysis and review when proposing new programs involving the collection, use or disclosure of personal information.
- The addition of language within the Act that will allow for the inclusion of municipalities under the legislation in the future.
- Language that will allow the government to create a program for proactive disclosure of salary information.
- Further clarification around the definition of "Cabinet Records" as well as defining the term "consistent purpose."

The amendments came into effect in September 2017.

Privacy Impact Assessments

In 2017 the Act was formally amended to include a requirement for public bodies to complete Privacy Impact Assessments (PIA). This requirement means that any development of a program or service or the redesign of an existing program or service by a public body is reviewed to determine the necessity for a PIA.

A process was established whereby project leads are directed to the ATIPP Office within the Department of Executive and Intergovernmental Affairs to complete a project initiation summary at the beginning of their project planning. The summary is reviewed by the ATIPP Office and if certain criteria are met, a comprehensive PIA is required. PIAs are sent to the Commissioner for review and comment.

Municipalities

The amendments to the ATIPP Act in 2017 were a significant step forward in our work with municipalities. The provisions ensure that municipalities are given the same type of protections, and obligations, as the territorial government, while accounting for their major differences in structure (ex. Councils as opposed to the Legislature).

In December of 2017, the Manager of ATIPP, with the support of the Department of Community and Government Services (CGS), presented to the Nunavut Association of Municipalities (NAM) and the Nunavut Association of Municipalities Administrators (NAMA). Although concerns were raised, both groups were receptive to the information and working together to ensure a successful approach to the development of access and privacy policies and administrative procedures within municipalities. Municipalities are prepared to work with the GN to identify current administrative and financial needs to the successful implementation of the Act.

EIA has committed to working with CGS and the Municipal Training Organization to ensure municipalities are provided adequate training and support before they are legally brought under the legislation through their inclusion in Schedule A of the ATIPP regulations.

ATIPP Training

The Government of Nunavut (GN) is committed to the successful implementation of the ATIPP Act throughout all public bodies. As the centralized point of coordination for the ATIPP function, the ATIPP office organizes training sessions for ATIPP coordinators and other GN staff throughout the year.

In 2016-2017 a total of 220 GN employees attended formal ATIPP training sessions. In 2017-2018 250 GN employees received some form of formal access and privacy training. These sessions are often combined with records management training, or provided during employee orientation sessions.

Charts included later in this report provide you with details on the training delivered.

2016-2017 Access Request Statistics

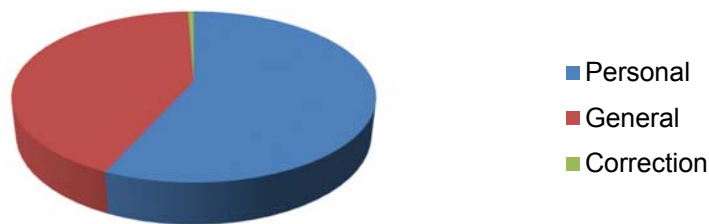
In 2016-2017, a total of 164 formal access to information requests were received by public bodies under the ATIPP Act. Although applicants can place access requests in any of the Official Languages of Nunavut, all requests were received in English. The table below lists public bodies that received one or more formal requests. Out of the public bodies who received formal requests in 2016-2017, the Department of Justice received the highest percentage with 17 percent of the requests.

Any public body that did not receive a request has been omitted from the table below.

Public Body	# of Requests	% to Total Requests
Community and Government Services	14	9
Culture and Heritage	18	11
Economic Development and Transportation	11	7
Education	18	11
Environment	3	2
Executive and Intergovernmental Affairs	6	4
Family Services	11	7
Finance	23	14
Health	23	14
Justice	28	17
Legal Services Board	1	1
Nunavut Arctic College	3	2
Nunavut Housing Corporation	2	1
Qulliq Energy Corporation	2	1
Workers Safety & Compensation Committee	1	1
Total	164	100%*

*Numbers have been rounded to the nearest whole number; hence the percentage actually adds up to 102%.

Type of ATIPP Requests 2016-2017



2017-2018 Access Request Statistics

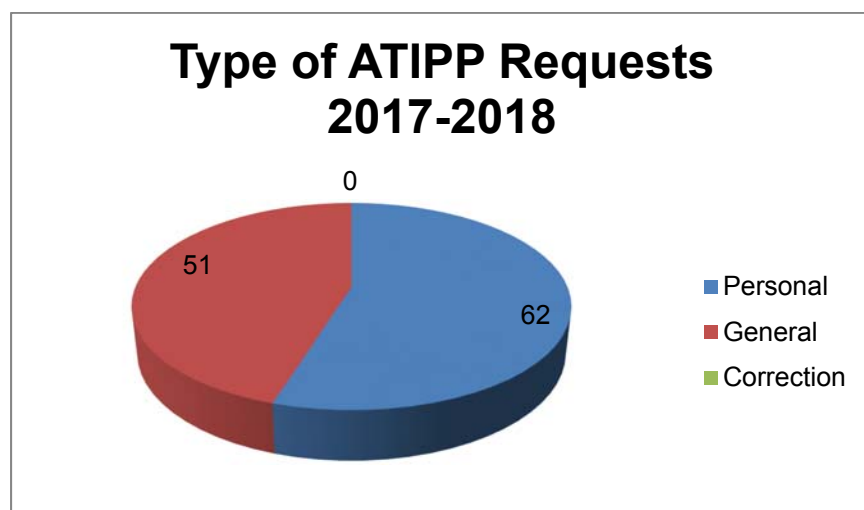
In 2017-2018, a total of 111 formal access to information requests were received by public bodies under the ATIPP Act. Although applicants can place access requests in any of the Official Languages of Nunavut, all requests were received in English. The table below lists public bodies that received one or more formal requests. Out of the public bodies who received formal requests in 2017-2018, the Department of Justice received the highest percentage with 23 percent of the requests.

Any public body that did not receive a request has been omitted from the table below.

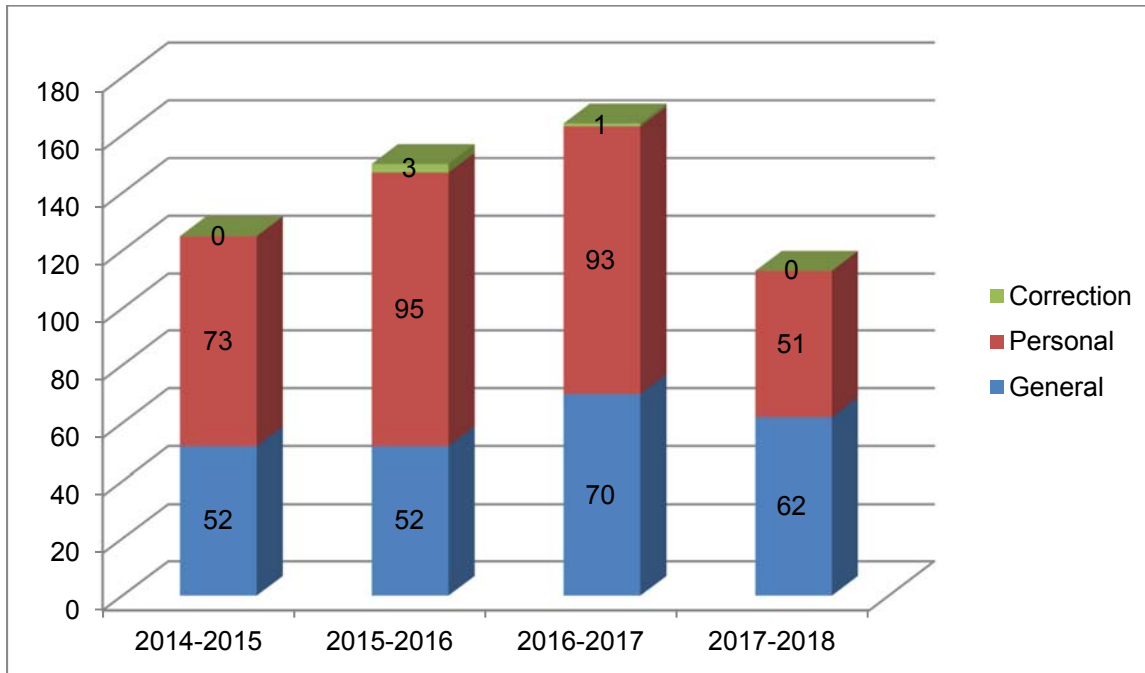
Public Body	# of Requests	% to Total Requests (approx.)
Community and Government Services	5	4
Culture and Heritage	2	2
Economic Development and Transportation	5	4
Education	12	11
Environment	6	5
Executive and Intergovernmental Affairs	5	4
Family Services	8	7
Finance	15	13
Health	23	20

Justice	25	22
Nunavut Arctic College	3	3
Nunavut Housing Corporation	1	1
Qulliq Energy Corporation	3	3
Total	113	100%*

*Numbers have been rounded to the nearest whole number; hence the percentage actually adds up to 99%.



Total Number of Access to Information Requests by Fiscal Year



From the data we see that 2016-2017 saw a significant increase in access to information requests whereas 2017-2018 there were a substantial decrease in requests in 2017-2018. However, the percentage of requests for general information increased from approximately 43% to approximately 55%. This distinction is significant as the work required for general requests is often more onerous in comparison to requests for personal information. It is also noteworthy that the number of personal requests is approximately 50% lower than the previous two fiscal years, and makes up a smaller percentage of the access requests placed with the government.

The government will continue to monitor this trend to better understand the significance of these changes, if any, in future fiscal years.

ATIPP Training Statistics 2016-2018

The Government of Nunavut is committed to the successful implementation of the ATIPP Act throughout all public bodies. Training sessions on the legislation are provided to employees throughout each fiscal year, the majority of which is done through the Department of Executive and Intergovernmental Affairs ATIPP Office.

Date	Location	Audience	Attendance	Type	Presenter
01-Apr-16	Iqaluit	Mental Health	15	Privacy around mental health	Legal Counsel
13-Apr-16	Rankin Inlet	Various GN Departments	17	Records Management	Records Management/ATIPP
14-Apr-16	Rankin Inlet	Various GN Departments	14	Records Management	Records Management/ATIPP
10-May-16	Iqaluit	Various GN Departments	14	Records Management	Records Management/ATIPP
19-May-16	Iqaluit	ATIPP Coordinators	9	ATIPP Coordinator Training	ATIPP Manager
23-Aug-16	Iqaluit	Various GN Departments	14	Records Management	Records Management/ATIPP
14-Nov-16	Iqaluit	Supervisors of Community Health Programs	25	ATIPP	Director of Policy and Planning/DH
30-Nov-16	Iqaluit	Various GN Departments	13	EOP	ATIPP Manager
06-Dec-16	Teleconference	Various GN Departments	6	EOP	ATIPP Manager
07-Dec-16	Iqaluit	IT students NAC	7	Basic ATIPP/ ATIPP and IT	ATIPP Manager
24-Jan-17	Iqaluit	Various GN Departments	14	Records Management	Records Management/ATIPP
25-Jan-17	Iqaluit	Various GN Departments	14	Records Management	Records Management/ATIPP
08-Feb-17	Iqaluit	Various GN	11	EOP	ATIPP Manager
09-Feb-17	Arviat	Various GN	11	EOP	ATIPP Manager
15-Feb-17	Baker Lake	Various GN	6	EOP	ATIPP Manager
17-Feb-17	Iqaluit	ATIPP Coordinators	24	ATIPP Coordinator Training	ATIPP Manager
01-Mar-17	Rankin Inlet	Various GN	6	EOP	ATIPP Manager
Total # of employees trained 2016-2017			220		

Date	Location	Audience	Attendance	Type	Presenter
11-Apr-17	Iqaluit	Various GN employees	17	Information Management Training	ATIPP Manager
30-May-17	Iqaluit	Various GN employees	15	Information Management Training	ATIPP Manager
21-Jun-17	Iqaluit	Various GN employees	20	Information Management Training	ATIPP Manager
17-Jul-17	Iqaluit	CGS- ATIPP Coordinator	1	ATIPP Coordinator Training	ATIPP Manager
11-Sep-17	Iqaluit	Nunavut Teachers Conference	49	ATIPP Training-School content	ATIPP Manager
25-Sep-17	Iqaluit	Various GN employees	17	Information Management Training	ATIPP Manager
10-Oct-17	Iqaluit	All GLOs	18	GLO specific ATIPP training	ATIPP Manager
27-Oct-17	Iqaluit	Various GN employees	22	Information Management Training	ATIPP Manager
27-Nov-18	Iqaluit	Various GN employees	18	Information Management Training	ATIPP Manager
16-Jan-18	Iqaluit	Nunavut Arctic College	10	Basic ATIPP	ATIPP Manager
22-Jan-18	Iqaluit	Various GN employees	13	Information Management Training	ATIPP Manager
09-Feb-18	Iqaluit	Various GN employees	17	Information Management Training	ATIPP Manager
20-Mar-18	Iqaluit	ATIPP Coordinators	8	ATIPP Coordinator Training	ATIPP Manager
27-Mar-18	Iqaluit	Various GN employees	25	Information Management Training	ATIPP Manager
Total # of employees trained 2017-2018			250		

Recommendations from the 2016-2017 and 2017-2018 Annual Report of the Information and Privacy Commissioner

Many of the recommendations from the 2016-2017 Report were repeated in the 2017-2018 Report of the Commissioner. From the comments made by the Commissioner in her reports, 7 responses are provided below.

1. Communicating Personal Health Information

“More energy and attention needs to be focused on how information is communicated from place to place within the system so as to avoid potential breaches. Encrypted email is likely the easiest and most effective way to do this. The Department of Health needs to make this the mandatory method of communications except in situations which makes this impossible or the urgency of the situation makes it infeasible.”

GN response

The Department of Health has a directive on transmitting personal health information, which provides guidance on password protecting attachments, encrypting emails and encrypted secure file transfer.

Email messages are not currently automatically encrypted on the GN email system because GN email users are contained within the GN firewall. The Department of Health and the Department of Community and Government Services will work together to explore additional options for encryption.

2. Updating and Modernization of the ATIPP Act

“Nunavut [was] the only jurisdiction not addressing the need to update and modernize the Access to Information and Protection of Privacy Act. It is also the only Jurisdiction in Canada that does not have health specific privacy legislation”.

GN response

The Department of Executive and Intergovernmental Affairs respectfully disagrees with this statement. Many jurisdictions are now discussing the idea of *modernization* of their access and privacy legislation. This does not refer to the review and updates to our legislation, but to the approach that governments take to dealing not only with access

and privacy, but also with information management as a whole. Nunavut is engaging with other Canadian jurisdictions on this topic. At this point, modernization is in its infancy and Nunavut has not fallen behind.

In terms of updating our legislation, the ATIPP Act has been reviewed and amended twice. Specifically, rather significant amendments were completed in 2012 and 2017.

In 2012 the ATIPP Act was amended to include very strong privacy specific provisions. These amendments brought Nunavut to the forefront in privacy protect legislation. Again in 2017, the ATIPP Act was amended to increase privacy protection by including the requirement for Privacy Impact Assessments. These amendments address the growing trends and needs in access and privacy legislation and policy. We have also added language to ensure we can move forward with important work on the inclusion of municipalities and other significant policy, namely proactive disclosure of salary information.

Although Nunavut is the last jurisdiction to pursue health specific privacy legislation, this should not be taken as a sign that Nunavut is not committed to working on this important legislation. The process was delayed due to changes in government, namely an election, but work is still being done to ensure we create legislation that is effective, efficient and ensures we protect personal health information, while not impeding the ability of our health professionals to use information to provide us with high quality health care services. As noted when we met with the Commissioner, we want to ensure we do not create a piecemeal Act that does not meet our needs once implemented. In the meantime, we have updated and solidified our privacy directives which support the ATIPP Act in the administration of our health care services. These directives have been sent to the Commissioner for review and comment. We look forward to receiving her response.

3. Policy Review

“In Review Report 17-127, I made did a review of all GN policies I could find with respect to the use of electronic records and found them scattered, disparate, poorly written, unclear and, for the most part not complete.... I recommended:

a) that there be a review of all the policies in relation to the use of electronic communications and that amendments be made as necessary to clarify the intended purposes of each such policy and to correct errors;

b) that a new and separate policy be developed to specifically address the issue of the use of personal devices and email accounts for undertaking GN business which will be applicable to all GN employees and that the policy should include:

a. a prohibition on the use of privately owned equipment and accounts as a means of communication except in exigent circumstances;

b. provisions for clear directions with respect to the management of such communications where such communications are necessary;

c. the following paragraph from the existing Acceptable Use of Mobile Devices Policy:

All GN wireless communications records shall be subject to all laws, policies and procedures that apply to the management of any other GN information or record. As per the Archives Act every decision and communication with respect to GN-related business must be documented and accessible based on records management retention schedules and/or under the provisions of the Access to Information and Protection of Privacy Act.

d. providing for significant and specific consequences for failure to comply with the policy

c) that steps be taken to disseminate and enforce this policy government wide such that there can be no question that every GN employee is aware of both the policy and consequences that might apply in the event of failure to comply;”

GN response

The Government of Nunavut is working on improving policy around electronic records.

In 2018 the Department of Community and Government Services (CGS) had a third party consultant review the various government information management acts and legislation across Canada and performed a comparison and analysis to that of the Government of Nunavut (GN). It found a significant number of gaps in current policy and legislation.

As a result of this review, Information Management / Information Technology is looking at an option for creating a Nunavut specific Information Management Act. In consulting with various stakeholders throughout the GN it was agreed that it would be appropriate to review all legislation pertaining to information management simultaneously, to ensure a comprehensive analysis of all relevant legislation and policy.

CGS has committed to beginning work on this significant project in 2019.

4. Focus on File Management

“Along similar lines, in last year’s Annual Report I discussed the fact that file management has not kept up with the way government works today. There are few, if any file management professionals working in government any more. Unlike the paper world, every employee with a computer has control over his or her electronic records with little or no training or checks and balances. As an inevitable result, file management and record keeping are becoming more haphazard and unwieldy. Quite apart from the need to maintain good records for current and future use, there is a direct relationship between good records and information management and the ability of a

public body to meet its responsibilities under the Access to Information and Protection of Privacy Act. Good records and information management practices can prevent records from being lost or misfiled, or from being improperly deleted. At the same time, strong records and information management practices will reduce the time and effort required to identify and gather records in response to an access request. More resources and focus need to be committed to this basic function of government - good, consistent and monitored record keeping.”

GN response

Over the past two years, the Department of Community and Government Services Information Management/ Technology (CGS IM/IT) team has been working diligently to improve information management services throughout the GN.

1. The IM/IT division is looking into options to restructure its current divisions to ensure efficient and effective IM services throughout the government.
2. The IM/IT division is currently in the process of creating an IT Strategy document. As part of this strategy, file management will be one of the components that will be addressed through various action plans that will surround information management for the Government of Nunavut. CGS has committed to beginning work on this significant project in 2019.

5. Dedicated ATIPP Coordinators

The Commissioner noted the following:

“More resources, however, are needed within public bodies and ATIPP Coordinators within the public bodies must be given the time necessary to meet their responsibilities under the Act, particularly in those departments which receive a lot of requests for information or deal with sensitive personal information. Both Finance and Health should have full time, dedicated ATIPP Coordinators whose job responsibilities include actively monitoring privacy policy compliance as well as responding to ATIPP requests.”

GN response

The Government of Nunavut has been faced with a significant increase in work related to the administration of the ATIPP Act in the last few years. This is also supported by the comments of the Commissioner in her Annual Report. As a result, some departments have been able to dedicate funding to ATIPP or ATIPP/records specific positions. Specifically, the following departments have created the following positions:

Department of Justice: ATIPP and Privacy Policy Analyst

Department of Human Resources: ATIPP Coordinator
Department of Executive and Intergovernmental Affairs: ATIPP Advisor
Department of Education: ATIPP/Records Management Coordinator

These are in addition to the positions within the departments of Health and Environment.

6. Lack of Privacy Breaches Reported

“It is to be noted that the number of breach notifications pursuant to section 49.9 of the Act is down considerably from the nine notifications in 2016/2017. This is not a result of better privacy protections, nor is it a good thing. Rather, it reflects another way in which public bodies are simply not meeting their obligations under the Act. Section 49.9 requires that public bodies that know, or have reason to believe, that a breach of privacy has occurred with respect to the personal information under its control must report the breach to the Information and Privacy Commissioner if the breach is “material”. In today’s digital world, almost any breach of privacy will amount to a material breach under the Act.”

GN response

The ATIPP Act provides the following guidance to the government in determining whether or not a privacy breach is considered material.

Material breach of privacy – factors

Section 49.9 (2) The factors that are relevant in determining whether a breach of privacy with respect to personal information under the control of a public body is material include

- (a) the sensitivity of the personal information; Access to Information and Protection of Privacy Act,*
- (b) the number of individuals whose personal information is involved;*
- (c) the likelihood of harm to the individuals whose personal information is involved; and*
- (d) an assessment by the public body whether the cause of the breach is a systemic problem.*

The ATIPP Act does not include any consideration for the extent that material is distributed, ie. through digital means. While we appreciate the Information and Privacy Commissioner’s concerns about an increasingly connected world, when determining whether a breach is material, this is not a relevant factor. With that being said, each privacy breach is investigated and the results of the investigation are used to determine if the breach is material and should be reported.

We are open to working with the Commissioner on educational material around privacy breaches and our requirements to report them. Also, public bodies would welcome guidelines that the Commissioner believes to be appropriate for determining whether or not a privacy breach fits within the definition in section 49.9 (2). If the Commissioner asserts that all breaches be reported, including minor breaches or incidents without any identifiable harm, this would be an increase of workload that public bodies would not be able to accommodate with existing resources and it could interfere with reporting and responding to serious breaches that require substantial attention.

7. Education

“We are behind the curve on ensuring that necessary education. That said, a lot of work has been done to develop appropriate age-level educational materials and course outlines. One of the projects that my counterparts from across the country and I have taken on is to create some basic lesson plans for this purpose. Three of these lesson plans have recently been published and these can be found on my website under the heading “Resources”. More needs to be done by the Department of Education to ensure that children start to learn about the value of their privacy, how to protect privacy on-line and how to deal with on-line bullying. This education has to begin right from the age of kindergarten and continue all the way through to Grade 12. I would encourage the Government of Nunavut to ensure that this education is embedded in the curriculum for all grades as soon as possible.”

GN response

The Government of Nunavut acknowledges that it is a very important topic to include in school curriculum to ensure the safety of all Nunavut students accessing electronic media.

The current junior high school curriculum includes coverage of risk factors involved in aspects of media communications. In addition, students are required to sign an agreement that they will only use internet and other electronic systems for positive learning purposes. Teachers also cover this topic as part of the Safety in Health curriculum.

The Department also completed a social media policy in schools that lays out acceptable use of social media for communicating education-related activities.

To strengthen the approach to this potentially serious issue, the Department utilizes the Integrated Learning Technologies Curriculum that was developed for Elementary schools. There is a section for responsible use and safety. As the Department of Education develops a new Information Technology curriculum for Nunavut schools, this topic will be included at all grade levels.