

ACCESSING YOUR PERSONAL INFORMATION IN

Alberta

RESOURCES

Freedom of Information and Protection of Privacy Act (FOIP)

<http://www3.gov.ab.ca/foip/legislation/index.cfm>

FOIP Guide

http://www3.gov.ab.ca/foip/other_resources/publications_videos/foip_guide.cfm

FOIP Guidelines and Practices 2005

http://www3.gov.ab.ca/foip/guidelines_practices/2005/index.cfm

Office of the Information and Privacy Commissioner of Alberta

<http://www.oipc.ab.ca/>

Disclaimer:

We have attempted to ensure that the information provided in this Manual is reasonably accurate and complete as of December 2005. However, we cannot guarantee complete accuracy or comprehensiveness; you should consult the relevant legislation and authorities if you seek fully accurate, complete, and up-to-date information.

Moreover, this Manual provides information of a general nature and does not constitute legal advice. Should you need legal advice, seek a lawyer.

Please report any errors or omissions in this Manual to cippic@uottawa.ca

WHO CAN REQUEST PERSONAL INFORMATION?

Anyone can request access to his or her own personal information. For information on requesting personal information about someone else, see *Accessing Government Information in Alberta*.

WHAT INFORMATION CAN I ACCESS?

You have the right to access any record, containing your own personal information, under the control of a public body, subject to certain exceptions described below. Public bodies include provincial government departments, agencies, boards and commissions; local government bodies such as municipalities and police agencies; educational bodies such as school boards and post secondary institutions; and health-care bodies.

WHAT IF THERE'S A MISTAKE IN MY PERSONAL INFORMATION?

You have the right to correct mistakes of fact, but not opinion, found in your personal information. To make such a correction you do not have to file an access to personal information request – simply fill out and submit the appropriate form which can be accessed at: http://www3.gov.ab.ca/foip/other_resources/forms/correction_form.cfm

WHAT ARE THE EXCEPTIONS TO MY RIGHT OF ACCESS?

There are a number of circumstances in which you may be denied access to your personal information, including the following:

Confidential evaluations

You may be denied access information about you if it has been provided in confidence and for the purpose of determining your suitability for government employment, including the award of contracts. You may also be denied information that could identify a participant in a formal employee evaluation process if that information was provided in confidence.

Privileged information

Your request for information may be denied if the information is protected by legal privilege such as solicitor-client privilege.

Publicly available information

You may be denied access to information that is available to the public. This includes information for which you must pay a fee and information that will be made available to the

public within 60 days of the date when the request is received.

If your request is refused because the information will be available within 60 days, the public body must inform you when it becomes available. If it is still not available after 60 days, the public body cannot deny access on the basis that the information will later be made public.

Third party privacy

Your access request will be denied if the disclosure would be an unreasonable invasion of a third party's personal privacy. Disclosure is presumed to be an unreasonable invasion of a third party's personal privacy if the record contains:

- personal health information;
- information that is part of a law enforcement record (except to the extent that disclosure is necessary to pursue prosecution);
- information that could reveal the source of confidential law enforcement information;
- financial information related to a third party's taxation, income, financial situation or receipt of social assistance;
- a third party's personal recommendations, character references or personnel evaluations;
- a third party's employment or educational history; and
- information revealing the race, ethnic origin, religious or political beliefs, or sexual orientation of a third party.

In addition to the list above, other information may violate a third party's privacy. In determining whether disclosure constitutes an unreasonable invasion of a third party's personal privacy, a public body must consider all relevant circumstances including:

- whether disclosure is desirable in order to subject the activities of a public body to public scrutiny;
- whether disclosure is likely to promote public health and safety or the protection of the environment;
- whether disclosure will help determine an applicant's rights;
- whether disclosure could expose a third party to harm, including damage to one's reputation;
- whether the information has been provided in confidence;
- whether disclosure would assist in researching or validating the claims or grievances of aboriginal people;
- whether the information is accurate and reliable; and
- whether the applicant originally provided the information.

Circumstances that weigh in favor of disclosure include:

- when the relevant third party consents to disclosure;
- when there are compelling circumstances affecting anyone's health or safety;

- when another Act expressly allows or requires disclosure;
- when the information relates to a public body employee's salary, classification, benefits, or expenses;
- when the information relates to a goods or services contract with a public body;
- when the information relates to a financial discretionary benefit to a third party;
- when the information relates to someone who has been dead for more than 25 years; and
- when disclosure is limited to information related to educational records or awards received and isn't contrary to the public interest.

Another Act prevails

If an Act specifies that *FOIP* does not apply, you cannot access information governed by that Act.

Individual or public safety

Your access request may be denied if disclosure could threaten individual or public safety.

Law enforcement and legal proceedings

Your access request may be refused if disclosure could be harmful to law enforcement. This includes information that would: jeopardize national security; reveal investigative techniques or details of an investigation; reveal confidential information; endanger anyone; deny someone a fair trial or otherwise harm legal proceedings; expose its source to civil liability; or facilitate the escape of an inmate. In addition, if the disclosure of information is prohibited by law, your request for access will be denied. Furthermore, the public body may refuse to confirm or deny the existence of such information.

Your request for information may be granted, however, if it relates to reports of routine inspections carried out to ensure compliance with Alberta law or to reports evaluating law enforcement programs.

Repetitive or frivolous request

Your access request may be refused if it is found to be repetitive or frivolous. In order to reject your access request on these grounds, a public body must get authorization from the Commissioner.

Exceptions related to government information

For additional exceptions more relevant to government information, see *Accessing*

Government Information in Alberta.

HOW DO I MAKE A REQUEST?

1. Check whether the information is publicly available

The Alberta government publishes a directory of records that is available at a variety of public libraries throughout the province. The latest edition is from 1995.

2. Contact public bodies

Call the public body and ask if it is willing to provide access to the information you want. Such informal methods can be effective, especially when the information you are requesting may be refused under one of the grounds above. Note, however, that informal access-to-information requests do not trigger time limits for responding to you, nor do they trigger certain rights, such as the right to request a review to the Commissioner”.

Contact information can be found at: <http://www3.gov.ab.ca/foip/coordinators/index.cfm>

3. Identify the appropriate public bodies

a) Determine whether the body is subject to access to information law

All bodies subject to the Act can be found at the following websites:

<http://www3.gov.ab.ca/foip/coordinators/index.cfm>

<http://www3.gov.ab.ca/foip/legislation/regulation/page19.cfm>

b) Determine whether the information is in the custody or control of the public body

Access-to-information laws only apply to records in the custody or control of a public body. If a record is destroyed, it is no longer in the custody or control of a public body, but it is an offence to wilfully destroy records in order to evade an access request.

4. Frame your request carefully

a) Use government directories to identify likely sources of information

The government of Alberta publishes a directory of records which is available at several public libraries in Alberta.

b) Request "records"

Request access to records, not to information, because “record” has a specific and broad definition which includes: “notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software

or any mechanism that produces records.”

c) Request indexes, catalogues, and other records-management aids

If you are seeking information that spans a broad area or could involve many records, you should first consider requesting indexes, file lists, file plans, and other records-management aids. These records of records can help you narrow your request and choose only the most relevant materials. This process can also shed light on other issues you may not have been aware of. The only drawback is that this is a two step request process: once you decide which records you would like, you must file another request to which the public body will have 30 days to respond.

d) Consider stating the purpose of your request

You are not required to state the purpose of your request, but doing so may help the public body locate the information more quickly.

e) Be specific

Unless absolutely necessary, try not to ask for all records related to a subject. The more narrow and specific your request is, the faster you will get a response and the less it will cost you. In addition, a narrow request is less likely to result in a time limit extension because it is unlikely to interfere unreasonably with the operations of the public body.

5. Consider a continuing request

You can ask that any new information matching your request be sent to you for up to 2 years.

6. If you need help

If you need help, ask the relevant public body. It is required to help you with your request and to respond openly, accurately and completely.

DO I HAVE TO USE A FORM?

You do not have to use a form, but your request must be made in writing. A form is available, however, and it can help you structure your request. The form can be found at:

<http://www.oipc.ab.ca/publications/foip.cfm>

The form for correcting factual information in your personal information file can be found at:
http://www3.gov.ab.ca/foip/other_resources/forms/correction_form.cfm

WHAT WILL IT COST?

Unlike accessing government information, there is no initial application fee for accessing your own personal information. You can only be charged for copying, and only when the actual cost exceeds \$10.

You may ask to have the copying fee waived. This request may be granted if:

- you can't afford the fee, or it would otherwise be fair to waive the fee; or
- releasing the information is in the public interest and relates to the environment or to public health or safety.

The public body must reply to your fee-waiver request within 30 days. If you are not satisfied with the response, you may request a review by the Privacy Commissioner.

HOW LONG WILL IT TAKE?

The public body must make every reasonable effort to respond to your request within 30 days of receiving it. If your request is transferred to another public body, the transfer must be done within 15 days and the new body must respond to you within 30 days of receiving your request.

A transfer to another body is only allowed when:

- the record is in the custody or under the control of the public body to which your request is being transferred; or
- the record originated with, or was first obtained by, the public body to which your request is being transferred.

A public body can extend the time limit for responses by up to 30 days or, with the Commissioner's permission, for a longer period. The time period may only be extended once and only when:

- your request does not provide enough detail for the public body to identify the requested record;
- you have requested a large number of records and responding within 30 days would unreasonably interfere with the operations of the public body;
- the public body needs time to consult with a third party or another public body before deciding whether to grant access to a record; or
- a third party requests that the Commissioner review a public body's decision to grant access to third party information.

Unless an extension has been granted, failure to respond to a request within 30 days is considered a denial of access. You may request that the Commissioner review a public body's failure to respond or its denial of access.

WHAT ARE MY OPTIONS REGARDING FORMAT?

Copies v. originals

You may have copies sent to you or you may view the originals. A public body may impose one format (copy or original) depending on considerations of length, condition, and form.

Language

In Alberta, you do not have the option of requesting that information be provided in a language other than English.

Alternative formats

A public body is not required to provide records in alternative formats for the hearing or seeing impaired. It will nevertheless often try to accommodate such requests.

What can I do if my request for access is denied?

If you are not satisfied with a public body's response, you have the right to request that the Office of the Information and Privacy Commissioner review that decision. See *Appealing Access to Information Decisions in Alberta*.