

ACCESSING YOUR PERSONAL INFORMATION IN

British Columbia

RESOURCES

Freedom of Information and Protection of Privacy Act (FOIPPA)

[http://www.oipcbc.org/legislation/FOI-ACT%20\(2004\).pdf](http://www.oipcbc.org/legislation/FOI-ACT%20(2004).pdf)

British Columbia Information Policy and Privacy Branch

<http://www.mser.gov.bc.ca/privacyaccess/>

Guide to Access to Information and Protection of Privacy

<http://www.oipc.bc.ca/pdfs/public/GuideToFOIPPAJune2004.pdf>

B.C. Freedom of Information and Privacy Association

<http://fipa.bc.ca/home/>

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 British Columbia*.

WHAT INFORMATION CAN I ACCESS?

You have the right to access any record, containing your own personal information, that is in the custody or under the control of a public body, subject to certain exceptions described below. Public bodies include the British Columbia government, Crown Corporations, municipalities, educational bodies 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, simply contact the relevant public body and request that a correction be made.

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:

Privileged information

Your request for information may be denied if the information is protected by 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 business days of the date when the request is received.

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

Third-party privacy

Your access request may be denied if disclosure would unreasonably invade a third party's privacy. Furthermore, a public body may refuse to confirm or deny the existence of information if to do so would unreasonably invade a third party's privacy.

Disclosure of the following will be presumed to be an unreasonable invasion of a third party's privacy:

- personal health information;
- information that is part of a law enforcement investigation record;
- a third party's financial information, including information about income, and credit-worthiness;
- a third party's personal recommendations, character references or personnel evaluations if disclosure could reveal who wrote them;
- a third party's employment or educational history;
- information revealing the race, ethnic origin, religious or political beliefs, or sexual orientation of a third party; and
- names, addresses or telephone numbers if the requester intends to use the information for mailing lists or solicitations.

The list above is not complete. Refer to *FOIPPA* for the complete list.

In determining whether disclosure of personal information would unreasonably invade a third party's 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;
- whether disclosure would help resolve the claims, disputes or grievances of aboriginal people;
- whether the information is accurate and reliable; and
- whether disclosure could unfairly damage a third party's reputation.

There are, however, circumstances when, regardless of the above, disclosure will be permitted. These include:

- when the relevant third party consents in writing to disclosure;
- when there are compelling circumstances affecting the applicant's health or safety;
- when another Act expressly allows or requires disclosure;
- when disclosure is for research purposes and complies with *FOIPPA*'s research provisions;
- 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; and
- when the information pertains to travel expenses.

Court records

You cannot access government information found in the records of: courts, judicial administration or judicial support services, judges, magistrates, or justices of the peace. Similarly, the personal notes of judges and those acting in a judicial role are not accessible.

Another Act prevails

If the information you want is governed by an Act that specifies that *FOIPPA* does not apply, you cannot access it under *FOIPPA*.

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; 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.

Repetitive or frivolous request

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

Exceptions related to government information

For exceptions more relevant to government information, see *Accessing Government Information in British Columbia*.

How do I make a request?

1. Check whether the information is publicly available

2. Identify the appropriate public bodies

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

FOIPPA applies to public bodies in British Columbia. These include provincial government ministries, provincial agencies, board and commissions, provincial Crown corporations, municipalities, school boards, universities, etc. For a list of public bodies, see Schedules 2 and 3 of the Act, which can be found at:

[http://www.oipc.bc.org/legislation/FOI-ACT%20\(2004\).pdf](http://www.oipc.bc.org/legislation/FOI-ACT%20(2004).pdf)

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.

3. Contact the public body

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 by the Information and Privacy Commissioner.

4. Frame your request carefully

a) *Use government directories to identify likely sources of information*

The government of British Columbia publishes a directory of records available at the government bookstore and local libraries.

b) *Request "records"*

Request access to records, not to information. FOIPPA defines "record" broadly, to include: "books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other 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 business days to respond.

d) 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. 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 without delay, openly, accurately and completely.

6. Where to send your request

A list of directors and managers of freedom of information and privacy for public bodies is available at: http://www.msar.gov.bc.ca/privacyaccess/contacts/DMIP_List.htm

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.msar.gov.bc.ca/foi_pop/TT_Manual/pdf_docs/Sec6_AccessRequestForm.pdf

WHAT WILL IT COST?

There is no fee for accessing your own personal information.

HOW LONG WILL IT TAKE?

The public body must make every reasonable effort to respond to your request within 30 business days of receiving it. If your request is transferred to another public body, the transfer must be done within 20 business days and the new body must notify you of the transfer.

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 business days or, with the Information and Privacy Commissioner's permission, for a longer period. The time limit for responses may only be extended 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 business days would unreasonably interfere with the operations of the public body; or
- the public body needs time to consult with a third party or another public body before deciding whether to grant access to a record.

Unless an extension has been granted, failure to respond to a request within 30 business days is considered a denial of access. You can ask the Information and Privacy Commissioner to review both the denial of access and the failure to respond on time. For more information, see "What else can I complain about?" below.

WHAT ARE MY OPTIONS REGARDING FORMAT?

Copies or originals

You may obtain copies of records or you may view the originals.

Language

In British Columbia, 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. For more information, see *Appealing Access to Information Decisions in British Columbia*.