

## ACCESSING PERSONAL INFORMATION IN

# New Brunswick

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### RESOURCES

**Right to Information Act (RIA)\***

<http://www.gnb.ca/acts/acts/r-10-3.htm>

**Protection of Personal Information Act (PoPIA)**

<http://www.gnb.ca/0062/acts/acts/p-19-1.htm>

**Office of the Ombudsman**

<http://www.gnb.ca/0073/index-e.asp>

**Government guide**

<http://www.gnb.ca/0012/information/index-e.asp>

\*The Right to Information Act (RIA) sets out how to access both government information and personal information from the Government of New Brunswick. However, PoPIA confers additional rights in conjunction with RIA and both Acts should therefore be read together.

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**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](mailto:cippic@uottawa.ca)*

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## **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 New Brunswick*.

## **WHAT INFORMATION CAN I ACCESS?**

You have the right to access any record containing your personal information that is under the control of a government department, subject to certain exceptions described below.

Personal information is defined as "information that relates to an identifiable individual." This includes your name, information that makes your identity obvious, as well as information which, if combined with other information, could make your identity known.

Government departments include the New Brunswick government, educational bodies and health care bodies. It does not include municipalities or the Human Rights Commission. A complete list of government departments to which the right to information law applies can be found in Schedule A of the regulations. See: <http://www.gnb.ca/0062/regs/85-68.htm>

When only part of a record is subject to an exception, the government department must, if possible, delete that portion and release the rest of the record.

## **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 legal privilege such as solicitor-client privilege.

### ***Publicly available information***

Your request may be denied if the information is already publicly available.

### ***Third party privacy***

Your access request may be denied if disclosure would reveal personal information about a third party. Usually, however, another person's personal information can be removed from records and the rest of the record will be provided to you.

### **Another Act prevails**

If the information you want is governed by an Act that specifies that the *Right to Information Act* does not apply, you may be denied access to it.

### **Individual safety**

Your access request may be denied if disclosure could threaten someone's safety.

### **Law enforcement and legal proceedings**

Your access request may be denied if disclosure could be harmful to law enforcement. This includes information that would: reveal investigative techniques or details of an investigation; reveal confidential sources of information; threaten the security of certain buildings, structures or systems (including computer systems); deny someone a fair trial; or jeopardize the proper control and supervision of prison inmates.

### **Exceptions related to government information**

For exceptions more relevant to government information, see *Accessing Government Information in New Brunswick*.

## **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 government department and request that a correction be made.

## **HOW DO I MAKE A REQUEST?**

### **1. Contact government departments**

Call the government department and ask whether 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 complain to the Ombudsman.

### **2. Determine whether the department is subject to access to information law**

All departments subject to the Act are listed in regulations under the *RIA* or *PoPIA*. See:

<http://www.gnb.ca/0062/PDF-regs/85-68.pdf> and <http://www.gnb.ca/0062/PDF-regs/2001-14.pdf>

### **3. Frame your request carefully**

#### *a) 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.

#### *b) Be specific*

Unless you absolutely need it, try not to request everything available on a subject so as to ensure a faster and less costly response. In addition, the more specific your request is, the less likely the public body will request a time limit extension on the grounds that answering the request within 30 days would unreasonably interfere with its operations.

### **4. If you need help**

If you need help, ask the relevant government department. It is required to help you with your request.

### **DO I HAVE TO USE A FORM?**

No. To request access, simply send a letter to the appropriate government department.

### **WHAT WILL IT COST?**

There is a \$5 fee for making an access request. In addition, you may be charged a fee of 10 cents per page for photocopying.

### **HOW LONG WILL IT TAKE?**

The government department 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, you must be notified and the new body must respond to you within 30 days of receiving your request.

A failure to respond within 30 days to a request is deemed a refusal and can be appealed.

## WHAT ARE MY OPTIONS REGARDING FORMAT?

### *Copies v. originals*

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

### *Language*

Records are provided in their original language. A government department is not required to provide government records in the official language of your choice. Concerns in this regard should be directed to the Commissioner of Official Languages: <http://www.officiallanguages.nb.ca/>.

### *Alternative formats*

A government department is not required to provide records in alternative formats for the hearing or seeing impaired. It will nevertheless often try to accommodate such requests. Concerns regarding the lack of such formats should be addressed to the Human Rights Commission: <http://www.gnb.ca/hrc-cdp/e/>.

## WHAT CAN I DO IF MY REQUEST FOR ACCESS IS DENIED?

If you are not satisfied with a government department's response to your access request, you have the right to request a review of its decision by the Office of the Ombudsman. The Ombudsman may make recommendations, and these are not binding on government departments.

Alternately, you may request that a judge of the Court of Queen's Bench review a decision to refusal access to information. A judge's decision is binding on a government department but going to court may take more time and cost more money than a review by the Ombudsman.

You may not request reviews by the court and the Ombudsman simultaneously. If you first approach the Ombudsman, and he or she recommends disclosure but that recommendation is rejected by the government department, you may apply to a judge for review. If you choose to go to court without first requesting a review by the Ombudsman, you may not request a review by the Ombudsman after a judge has issued his or her decision.

For more information, see *Appealing Access to Information Decisions in New Brunswick*.