

ACCESSING YOUR PERSONAL INFORMATION IN

Ontario

RESOURCES

Ontario Freedom of Information and Protection of Privacy Act

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90f31_e.htm

Municipal Freedom of Information and Protection of Privacy Act

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90m56_e.htm#BK1

Information and Privacy Commissioner/Ontario

<http://www.ipc.on.ca>

Mini Guide to Freedom of Information and Protection of Privacy Act

http://www.ipc.on.ca/scripts/index_.asp?action=31&P_ID=11601&N_ID=1&PT_ID=23&U_ID=6534179785

Mini Guide to Municipal Freedom of Information and Protection of Privacy Act

http://www.ipc.on.ca/scripts/index_.asp?action=31&P_ID=11599&N_ID=1&PT_ID=11205&U_ID=0

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 Ontario*.

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 institution, subject to certain exceptions described below. Government institutions include provincial ministries, municipalities, agencies, boards, commissions and certain government corporations.

If a record contains information that cannot be disclosed, the institution must remove that information where possible and give you access to the rest of the record.

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 own 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

You may be denied access to information that is already available to the public through another means. This includes information for which you must pay a fee and information that will be made available to the public within 90 days of the date when the request is received.

Third party privacy

Your access request will be denied if disclosure would invade a third party's privacy. Furthermore, a government institution may refuse to confirm or deny the existence of

information if to do so could invade a third party's privacy.

Disclosure of the following will be considered an invasion of a third party's privacy:

- personal health information;
- information obtained through a law enforcement investigation;
- 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, and in determining whether this is the case a government institution will consider all relevant circumstances including:

- whether disclosure is desirable in order to subject the activities of a government institution to public scrutiny;
- whether disclosure is likely to promote public health and safety;
- whether disclosure would inform customer choice;
- whether disclosure will help determine an applicant's rights;
- whether disclosure could expose a third party to harm;
- whether the information has been provided in confidence;
- whether the information is highly sensitive;
- whether the information is accurate and reliable; and
- whether disclosure could damage a third party's reputation.

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

- when the relevant third party consents in writing to disclosure;
- when there are compelling circumstances affecting an individual's health or safety;
- when another Act expressly authorizes disclosure;
- when disclosure is for research purposes; and
- when the information was collected in order to create a public record.

Another Act prevails

If the information you want is governed by an Act that specifies that the *Ontario Freedom of Information and Protection of Privacy Act* or *Municipal Freedom of Information and Protection of Privacy Act* does not apply, you cannot access it.

Individual safety

Your access request may be denied if disclosure could threaten anyone'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; endanger anyone; deny someone a fair trial; or facilitate the escape of an inmate. Furthermore, the government institution may refuse to confirm or deny the existence of such information.

However, you are entitled to access information that is part of a report of a routine inspection conducted by an agency authorized to enforce laws or that consists of statistics related to the success rate of law enforcement.

Employment records

You do not have a right of access to information collected, prepared, maintained or used by an institution in connection with labour relations or employment matters.

Frivolous or vexatious request

Your access request may be refused if it is frivolous, vexatious or made in bad faith.

Exceptions related to government information

For additional exceptions more relevant to government information, see *Accessing Government Information in Ontario*.

HOW DO I MAKE A REQUEST?

1. Check whether the information is publicly available or whether you are otherwise entitled to the information. For example, disclosure requirements related to civil and criminal proceedings may apply.

2. Contact government institutions

Call the government institution 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 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.

Contact information can be found in the Directory of Institutions at:
<http://www.accessandprivacy.gov.on.ca/english/doi/index.html>

3. Identify the appropriate government institution

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

All institutions subject to access to information law can be found at:
<http://www.accessandprivacy.gov.on.ca/english/doi/index.html>

b) Determine whether the information is in the custody or control of the government institution

Access-to-information laws only apply to records in the custody or control of a government institution.

4. Frame your request carefully

a) Use government directories to identify likely sources of information

The government of Ontario publishes a Directory of Records available at:
<http://www.cfipo.gov.on.ca/mbs/dor/dirrec.nsf/ODAMainpage/>

b) Request "records"

It will be easier for the government to respond to your request if you ask for records, rather than information. A record is defined as "any record of information however recorded".

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 government institution will have 30 days to respond.

d) 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 government institution will request a time limit extension on the grounds that answering the request within 30 days would unreasonably interfere with its operations.

5. If you need help

If you need help, ask the relevant government institution. It is required to help you formulate your request if you have trouble describing the records you are seeking.

DO I HAVE TO USE A FORM?

You do not have to use a form, but one is available and it can help you structure your request. The form can be found at: <http://www.ipc.on.ca/docs/accfm-e.pdf>

Note also that although oral requests are permitted, they cannot be appealed.

WHAT WILL IT COST?

You must pay a \$5 dollar application fee when you submit your request. If you are requesting access to your own personal information, you will not be charged a fee for time spent in searching or preparing records for disclosure. However, the following fees will be charged where applicable:

- a) 20 cents per page for photocopies and printouts;
- b) \$10 for floppy disks;
- c) \$15 per 15 minutes of time spent developing a computer program; and
- d) any other costs incurred by the institution in responding to the request.

If the total fee will exceed \$25, the government institution will send you an estimate before it begins any search on your behalf.

If the total fee will be \$100 or more, you may be asked to pay a deposit before any more steps are taken.

You may ask the Information and Privacy Commissioner to review the amount of the fee.

You may ask to have some or all of the fees 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 public health or safety.

The government institution must reply to your fee-waiver request in writing. If you are not satisfied with the response, you may complain to the Information and Privacy Commissioner.

HOW LONG WILL IT TAKE?

The government institution must respond to your request no later than 30 days after receiving it. If your request is transferred to another government institution, the new

institution must still respond to you within 30 days of the date you submitted the request to the first institution.

Your request may be forwarded or transferred to another government institution if:

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

A government institution can extend the time limit for responses when:

- you have requested a large number of records and responding within 30 days would unreasonably interfere with the operations of the government institution;
- a large number of records will need to be searched and responding within 30 days would unreasonably interfere with the operations of the government institution; or
- the government institution needs time to consult with, or give notice to, a third party or another government institution before deciding whether to grant access to a record.

Failure to respond to a request within the time limits is considered a denial of access. You can complain to the Information and Privacy Commissioner about a failure to respond or a decision to extend the time limit.

WHAT ARE MY OPTIONS REGARDING FORMAT?

Copies v. originals

You may have copies sent to you or you may view the originals. A government institution may impose one format (copy or original) depending on considerations of length and the nature of the record.

Language

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

Alternative formats

You are entitled to request access to information in whatever reasonably practicable format you wish, subject to the payment of appropriate fees.

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

If you are not satisfied with a government institution's response to your access request, you

have the right to appeal its decision to the Office of the Information and Privacy Commissioner. For more information, see *Appealing Access to Information Decisions in Ontario*.