

ACCESSING GOVERNMENT INFORMATION IN

Quebec

RESOURCES

Quebec Access to Information Legislation

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_2_1/A2_1_A.html

Access Commission

<http://www.cai.gouv.qc.ca/index-en.html>

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 GOVERNMENT INFORMATION?

Anyone can request government information.

WHAT INFORMATION CAN I ACCESS?

You have the right to access any document under the control of a public body, subject to certain exceptions described below. Public bodies include the Lieutenant Governor, the National Assembly, and agencies such as educational and health care bodies and municipalities.

WHAT ARE THE EXCEPTIONS TO MY RIGHT OF ACCESS?

There are certain circumstances in which you may be denied access to information, including the following:

Repetitive or frivolous request

Your request can be disregarded if it is improper because it is repetitive or systematic.

Another act prevails

If the information you want is governed by an Act that specifies that the Quebec *Access to Information Act* does not apply, you may not be able to access it. Consult the Act that governs the documents for more information. Medical records, for example, are governed by the *Act Respecting Health Services and Social Services*.

Law enforcement and legal proceedings

Your access request must be refused if disclosure could be harmful to law enforcement. This includes information that would: 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. Furthermore, the public body may refuse to confirm or deny the existence of such information.

The records of courts, judicial administration or judicial support services, judges, magistrates or justice of the peace are not governed by the *Access to Information Act*.

Privileged information

Your request for information may be denied if the information is protected by legal privilege

such as solicitor-client privilege. In addition, a public body may refuse to disclose a legal opinion related to a particular case or draft legislation.

Advice

Unless the information is more than 10 years old, you may be denied access to records that could reveal recommendations or opinions to or from public bodies.

Cabinet confidences

Unless Cabinet consents, or unless the information is more than 25 years old, you cannot access information revealing the substance of deliberations of the Cabinet, of Cabinet committees, or of the provincial Treasury Board.

Relations with other governments

Unless the affected government institution consents, you may be refused access to information that could harm relations between Quebec and other governments, including local, Canadian and foreign governments, or between Quebec and an international organization.

Economic and other interests of a public body

Your access to information request may be refused if disclosure could seriously harm or unduly benefit a person, or if disclosure could have a serious adverse effect on the economic interests of a public body.

Conservation

Your access request may be denied if disclosure could harm conservation efforts. This includes the conservation of: heritage sites, historic objects or works; and rare, endangered, threatened or vulnerable life forms.

Business interests of third parties

You cannot access information whose disclosure would likely harm a third party's business interests. This includes a third party's industrial secrets or other confidential industrial, financial, commercial, scientific, technical or union information.

You can, however, get access when:

- the third party consents to the disclosure;
- the information is already publicly available; or
- another Act requires disclosure.

Third party privacy

Your access request for personal information about a third party will be denied if disclosure would be an invasion of privacy.

Unless the third party consents, disclosure of the following will be considered an invasion of a third party's privacy (note that this is not an exhaustive list):

- personal health information;
- information that is part of a law enforcement record;
- 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.

There are, however, circumstances when, regardless of the criteria above, disclosure of personal information will be permitted without the third party's consent. These include:

- when there are compelling circumstances affecting the applicant's health or safety;
- when the information is required for the purposes of prosecuting an offence;
- when another Act expressly allows or requires disclosure;
- when disclosure is for research purposes;
- when the information relates to a public body employee's salary scale, classification, benefits, or expenses;
- when the information relates to a goods or services contract with a public body; or
- when the information relates to a financial discretionary benefit to a third party.

Archived records acquired from private parties

Archived documents are not accessible through an access to information request but are rather governed by the Archives Act. Consult the relevant archives for more information.

Individual or public safety

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

Exceptions related to personal information

For exceptions more relevant to personal information, see *Accessing Personal Information in Quebec*.

HOW DO I MAKE A REQUEST?

1. 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. 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 Commission.

2. Identify the appropriate public body

Determine whether the information is in the custody or control of a particular public body

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

3. Frame your request carefully

a) Request "documents"

Request access to documents, not to information, because the term "document" 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."

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

If you are seeking information that spans a broad area or could involve many documents, 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 documents you would like, you must file a written request to the relevant public body's designated person in charge of access to information. A list of these people is available at: <http://cai.gouv.qc.ca/index-en.html>.

c) 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 ten day time limit extension on the grounds that answering the request within 20 days would unreasonably interfere with its operations.

4. If you need help

If you need help, ask the relevant public body's designated person in charge of access to information (see: <http://www.cai.gouv.qc.ca/index-en.html>). He or she is required to help you with your request.

DO I HAVE TO USE A FORM?

You do not have to use a form but your request must be made in writing.

WHAT WILL IT COST?

In Quebec there is no application fee for requesting access to government information. However, fees will be charged where applicable for the cost of transcription, reproduction and transmission of the document.

HOW LONG WILL IT TAKE?

The public body must make every reasonable effort to respond to your request within 20 days of receiving it. A public body can extend the time limit for responses by up to ten days, and a public body can only extend the time period once.

The time limit for responses may only be extended when:

- you have requested a large number of records and responding within 20 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 makes a complaint to the Commission about a decision to grant access.

Failure to respond to a request within 20 days is considered a denial of access. You can complain to the Commission about both the denial of access and the failure to respond on time. For more information, see *Appealing Access to Information Decisions in Quebec*.

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

Generally the document will be provided in the language in which it exists. You may request that documents be translated into English or French, but a public body is not required to fulfill your request.

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 to your access request, you have the right to request a review of its decision by the Commission d'accès à l'information. For more information, see *Appealing Access to Information Decisions in Quebec*.