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Personal Information Protection Act (PIPA)
PIPA ADVISORY #2
ACCESS REQUESTS UNDER PIPA: AN OVERVIEW

This document was prepared to help organizations implement the *Personal Information Protection Act*. This document is an administrative tool intended to assist in understanding the Act. It is not intended as, nor is it a substitute for, legal advice. For the exact wording and interpretation of PIPA, please read the Act in its entirety. This Advisory is not binding on the Office of the Information and Privacy Commissioner of Alberta (OIPC).

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Introduction

The *Personal Information Protection Act* (“PIPA” or “the Act”) provides individuals with a right to access their own personal information contained in a record in an organization’s custody or control, and to request to have inaccurate personal information corrected.

Individuals also have a right to know the purposes for which their personal information has been and is being used by an organization, as well as the names of the persons to whom their personal information has been provided, and the circumstances of that disclosure.

This Advisory is part of a series developed by the OIPC to assist organizations in handling and responding to requests for access.

**What is
“Personal
Information”?**

Individuals, including both current and former employees of an organization, have a right of access to their own personal information. Personal information is defined in section 1(k) of the Act to mean “information about an *identifiable* individual.” To meet this definition, the information must either readily identify the individual, or the identity of the individual can be determined from the information. If the individual cannot be identified, the information is not “personal information” under the Act.

Example: An organization videotapes a man whose features cannot be seen, and whose mannerisms and clothing do not identify him. As the identity of the man on the tape cannot be determined, the videotape is not “personal information” under the Act.

Example: A tape recording is made of a woman having a conversation with a friend in which the woman’s name and address are mentioned. The recording is “personal information” because the woman can be identified.

Personal information is not limited to factual information about an individual, but also includes someone’s opinion, evaluation or comments about another individual.

Example: An employee’s supervisor writes in a performance appraisal that the employee is “unreliable as he does not finish projects by the agreed upon deadlines.” The supervisor’s evaluation is personal information of the employee being reviewed.

Information about an identifiable individual is personal information regardless of the medium or form in which it is stored. It includes information in written, printed, photographic or electronic form. If a conversation that includes personal information is recorded, e.g. on tape or in notes, the personal information contained in that record is subject to the Act.

While the Act applies to personal information whether recorded or not, an individual only has a right of access to recorded personal information.

Examples:

- A photograph or videotape from a security camera that clearly captures an identifiable individual
- Names and addresses of customers stored in an electronic database in a department store's computer system
- Notes in a supervisor's file about an identifiable employee
- A conversation in a hallway about a co-worker's recent illness, where no notes or recordings are made, is not recorded personal information

Limitations on application of the Act

Not all personal information is covered by the Act. For example, the Act does not apply to business contact information where it is collected, used or disclosed solely for the purpose of contacting an individual in his or her business capacity.

Business contact information is defined in the Act to mean an individual's name, position name or title, business telephone number or address, e-mail, fax number, and other similar business information.

Other examples of information that is not governed by PIPA are listed in Section 4(3) of the Act and include, but are not limited to, personal information:

- personal information to which the Alberta *Freedom of Information and Protection of Privacy Act* applies;
- collected, used or disclosed solely for personal or domestic (home and family) purposes
- collected, used or disclosed solely for artistic, literary or journalistic purposes
- about an individual who has been dead for at least 20 years or contained in a record that came into existence at least 100 years ago; or
- contained in a court file or judicial record as described in the Act

- created by or on behalf of a Member of the Legislative Assembly.

If the Act does not apply to the information, individuals do not have a right of access under PIPA.

Who can make a request?

Individuals can request access to their own personal information. The Act also provides that a request can be made by the following:

- a minor child (under 18 years of age) who understands the right of access and the consequences of exercising that right (a “mature minor”)
- a legal guardian of a minor child
- the personal representative of a deceased individual, if related to administration of the deceased’s estate
- the individual’s guardian or trustee under the *Dependent Adults Act*, if related to the powers and duties of that guardian or trustee
- the individual’s agent under a personal directive, if related to that agent’s powers under the directive
- the individual’s attorney under a power of attorney, if related to the powers and duties conferred on that attorney
- any person with written authorization from the individual to act on the individual’s behalf

Only an individual has a right of access, but a person other than an individual could make a request on behalf of an individual. Corporations and other entities are not individuals under the Act.

Making a request

Section 26 of the Act requires that a request for access be made in **writing** to an organization.

Organizations must make every effort to assist applicants who are unable to make a written request. For example, the organization can discuss the request with the applicant, record the details, and try to obtain the applicant’s signature. Alternatively, there may be a third party who can assist the applicant in writing out the request.

If the applicant is able to make a written request, but refuses to do so, the organization is not required to proceed until a written request is received.

The Act does not prevent organizations from responding to a verbal or email access request. However, an organization must ensure that it discloses personal information only to the individual the information is about or to a person authorized to exercise the right of the individual.

The Act does require the applicant to provide sufficient detail to enable the organization to identify the requested information. The request should be clear enough to allow a reasonable person, with a working knowledge of the business and its records, to determine what the individual wants.

TIP: To assist individuals in making a request for access, organizations may want to develop a request form that can be filled out by applicant, and that provides information the organization needs to respond to the request. The form can be made available in both hard copy and electronic (printable) format. A [sample form](#) is attached to this Advisory.

An applicant may ask for a copy of the record, or ask to examine the record containing personal information.

Fees

Section 32 of the Act allows an organization to charge a “reasonable” fee in providing an individual access to personal information.

Organizations cannot charge fees when responding to requests for correction, or for providing access to personal employee information.

For more information on fees for access to personal information, see PIPA Advisory #5 *Access Requests Under PIPA: Fees*.

Time limits

PIPA requires that an organization respond to an applicant’s request for access within 45 days of receiving the written request, unless the time limit has been extended as allowed under section 31 of the Act.

The 45-day time limit may be extended if the organization is required to clarify a request, if a large amount of personal information is requested or must be searched, or for other reasons specified in the Act. The organization's time period for responding does not include days when the organization is waiting for a response from the applicant to a fee estimate.

The time limit can be affected by lack of clarity in the applicant's request, or as a result of being extended by the organization or with the Commissioner's permission. The time limit can also be suspended while an organization awaits a response to a fee estimate provided to the applicant.

For more information on timelines for responding to a request for access, see the PIPA Advisory #6 *Access Requests Under PIPA: Timelines*.

Exceptions to access

An individual's right to access personal information under the Act is not unqualified. The Act allows, and in some cases requires, organizations to refuse access to some records or parts of records.

For example, under section 24(2) of the Act, an organization may refuse to provide access to personal information that:

- is subject to any legal privilege
- would reveal confidential commercial information
- was collected for an investigation or legal proceeding
- if disclosed, might result in that type of information no longer being provided to the organization, when it is reasonable that the information be provided
- was collected by a mediator or arbitrator, or during the conduct of a mediation or arbitration
- relates to or may be used in the exercise of prosecutorial discretion

Under section 24(3) of the Act, an organization **shall not** provide access to personal information where disclosure:

- could reasonably be expected to threaten the life or security of another individual

- would reveal personal information about an individual other than the applicant
- would reveal the identity of an individual other than the applicant who has provided an opinion in confidence about the applicant, and has not consented to the disclosure of her/his identity.

For more information on refusing to provide access to personal information, see PIPA Advisory #7 *Access Requests Under PIPA: Exceptions to Access*.

Responding to a request

Section 29 of the Act details what information **must** be included in a response to an applicant’s request for access to personal information. The organization’s response must advise the applicant:

- whether or not all or part of the records containing the applicant’s personal information will be provided
- when access will be given
- if access to some or all of the applicant’s personal information is refused, the reasons for the refusal and the provision(s) of the Act authorizing or requiring the refusal
- the name of someone in the organization the applicant can speak to about any refusal
- that the applicant has the right to ask this Office to review the organization’s decision

For more information on providing a response to a request for access, see OIPC Advisory #3 *Access Requests Under PIPA: Responding to a Request*.

Other resources

For more information on “personal information,” see [Information Sheet 3: Personal Information](#), produced by Alberta Government Services, Access and Privacy Branch, and available at www.pipa.gov.ab.ca.

For an overview of the Act with examples and tips for incorporating good privacy practices, see [A Guide for Businesses and Organizations on the Personal Information Protection Act](#).

[The Personal Information Protection Act, A Summary for Organizations](#) summarizes the key obligations of organizations.

Ten Steps to Implement PIPA is a quick reference for organizations preparing for the Act.

Publications are available at the web site of the Office of the Information and Privacy Commissioner (www.oipc.ab.ca).

Publications are also available on-line at the Alberta Government Services, Access and Privacy Branch website (www.pipa.gov.ab.ca).

Visit the Queen's Printer website to view an online version of the Act (www.qp.gov.ab.ca).

ATTACHMENT 1 – Request for Access to Personal Information Form

Access to Records Containing Personal Information

Name of Applicant: _____

Mailing Address: _____

Contact Information (phone #, email address, etc.): _____

Best time to call (if phone number is included): _____

Current or Past Employees

Do you want copies of your:

- 1. *Pension information? Yes No
- 2. *Performance appraisals? Yes No
- 3. *Attendance sheets? Yes No
- 4. *Contents of your personnel file? Yes No
- 5. *Contents of your benefits file? Yes No
- 6. Any other records? Yes No

If so, what records? _____

Over what time frame do you want us to search (this will help us determine whether archived records need to be checked)? _____

All Other Applicants

Do you want copies of:

- 1. *Return receipts? Yes No
- 2. *Pre-ordered receipts? Yes No
- 3. *Screen prints of your personal information in our computer? Yes No
- 4. *Handwritten notes on telephone conversations? Yes No
- 5. *Email correspondence? Yes No
- 6. If the same document is held in more than one location/department, do you want multiple copies of that record even if it is identical? Yes No

Are there any other records containing your personal information that you are interested in receiving? If so, please provide additional details here: _____

Date: _____ Signature: _____

If you have any questions about completing this form, please feel free to contact us at: _____

Please note that the records followed by an * may not be available. Most records are kept for limited periods. Our response will indicate when any such records were destroyed as required by our retention and destruction policies.

While we have 45 calendar days to respond to your request upon receipt in our office, we will endeavor to respond as quickly as possible. However, if we require clarification of your request, the law allows us to extend the time limit. If this 45 day time limit is extended, we will contact you before that time to provide details on the delay.

The 45-day time limit for responding does not include days when we are awaiting you to respond to a fee estimate. Current employees should note that the law does not permit us to charge a fee for access to personal employee information.

Depending on how sensitive the personal information contained in the requested records are, we may also contact you to acquire documentation to establish your identity.