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INFORMATION AND GUIDELINES FOR AN ADVANCE RULING UNDER ALBERTA'S PERSONAL INFORMATION PROTECTION ACT (PIPA)

Amended January 2005

The Office of the Information and Privacy Commissioner (OIPC) has developed the following guidelines for an advance ruling under section 36(3) of PIPA. These guidelines are an administrative tool only, intended to assist organizations in requesting an advance ruling. They are not intended as, nor are they a substitute for, legal advice. OIPC may revise these guidelines at any time.

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1. ADVANCE RULING DESCRIBED

An organization that is subject to PIPA may request an advance ruling from the Commissioner on any matter that could be the subject of an investigation by the Commissioner under PIPA. Such matters may include the collection, use and disclosure of personal information by the organization.

In general, an advance ruling:

- is not a right; a request for an advance ruling may be refused
- may only be requested by an authorized representative of an organization, upon evidence that the representative has the authority to make the request on behalf of the organization
- relates only to the specific matter and facts as set out in the request
- applies only to the requesting organization
- is not a “legal precedent” that anyone else can rely on

- is not informal advice or assistance on routine matters or opinions expressed during discussions or in exchanges of correspondence with OIPC

2. REFUSAL OF AN ADVANCE RULING

Upon reviewing a request for an advance ruling, the Commissioner (or his delegate) may refuse a request for an advance ruling.

In particular, a request for an advance ruling will be refused if:

- a) the advance ruling may impair the rights of other persons under PIPA, or**
- b) the advance ruling requires an interpretation of the provisions of PIPA, rather than the application of the provisions of PIPA to specific facts.**

Without limiting the Commissioner, some other circumstances in which the Commissioner may refuse a request for an advance ruling include when:

- the request contains a matter of jurisdiction or legal forum
- the matter involves a new legal issue
- the request would require extensive factual inquiries
- it is not possible to determine all of the material facts
- the request involves a matter before the courts
- the request involves proposed or draft legislation
- the request involves a matter that is frivolous or vexatious
- the requester wants an advance ruling based on several proposed alternative courses of action or transactions
- the same matter and the same parties are already before OIPC
- the advance ruling is not timely, or may be moot when issued
- the nature of the request is repetitious or systematic
- the request may unreasonably interfere with the operations of OIPC or amount to an abuse of the right to make a request

If the Commissioner refuses a request for an advance ruling, OIPC will return the request to the requester.

3. REQUESTING AN ADVANCE RULING

Before completing all the necessary work to request an advance ruling, an organization may want to consult with our Calgary office at (403)297-2728 or toll free 1-888-878-4044.

A request for an advance ruling must contain:

- a) A clear statement of the matters on which the advance ruling is requested, and references to applicable provisions of PIPA and any related legislation.
- b) A detailed statement of all the material facts, and a full analysis of the legislation and authorities (if any) as applied to those facts.
- c) A direction as to what the requester views as confidential in the request.
- d) Copies of all supporting documentation.
- e) Evidence that the representative has the authority to make the request on behalf of the organization.

The request for an advance ruling, together with all supporting documentation, may be submitted to OIPC Calgary at the following address:

Office of the Information and Privacy Commissioner (Calgary)
Suite 2460, 801 – 6th Avenue SW
Calgary, Alberta T2P 3W2
Phone: (403) 297-2728; TOLL FREE: 1-888-878-4044
E-mail: generalinfo@oipc.ab.ca

Subject to verification of the request, the request will be considered as quickly as possible. However, no commitments can be given on the time required to consider the request. A requester will be notified if an extended delay is expected.

The Commissioner (or his delegate) may ask for additional information before giving an advance ruling. The Commissioner's (or his delegate's) written advance ruling will be sent to the requester.

4. APPLICABILITY OF AN ADVANCE RULING

An advance ruling applies only to the organization that requested the advance ruling.

An advance ruling applies only to the specific matter and facts as set out in the request.

5. ADVANCE RULING CEASING TO HAVE EFFECT

An advance ruling ceases to have effect if:

- a) The law on which the advance ruling was based is amended. The advance ruling ceases to have effect from the date of the amendment. OIPC will not notify the requester about that amendment.
- b) The advance ruling was based on an authority that has subsequently been changed by a court decision.
- c) The advance ruling depends upon meeting conditions or circumstances occurring within a time limit specified in the advance ruling, and the conditions were not met or the circumstances did not occur before the time expired.
- d) There is an omission in or misrepresentation of the facts or authorities submitted by the requester, or the facts changed after the advance ruling was given.

6. PUBLISHING AN ADVANCE RULING

The Commissioner has the authority to publish an advance ruling in a complete or edited form.