



OFFICE OF THE
INFORMATION AND PRIVACY
COMMISSIONER
OF ALBERTA (OIPC)

Personal Information Protection Act (PIPA)

A PIPA GUIDE FOR INDIVIDUALS: UNDERSTANDING THE ROLE OF THE OIPC

PURPOSE OF THIS GUIDE

This Guide is intended to help individuals understand their rights under the *Personal Information Protection Act* (PIPA), and what to expect in their interactions with the Office of the Information and Privacy Commissioner of Alberta (OIPC).

THE PERSONAL INFORMATION PROTECTION ACT

As of January 1, 2004, the collection, use and disclosure of personal information in the private sector in Alberta is governed by the *Personal Information Protection Act* (PIPA) and its Regulations.

The Act recognizes both your right as an individual to have your personal information protected and the needs of organizations to collect, use and disclose personal information for purposes that are reasonable.

You can complain to the Information and Privacy Commissioner of Alberta if you believe an organization covered by the Act is not living up to its responsibilities under the law. The Commissioner is responsible for overseeing the PIPA and ensuring compliance. The Commissioner is an Officer of the Legislature and is independent of government.

OIPC staff is available to provide guidance regarding your rights under the PIPA. Additional information is available on the Commissioner's website at:

<http://www.oipc.ab.ca/pipa/publications.cfm>.

WHAT IS PERSONAL INFORMATION?

"Personal information" means information about an identifiable individual. This might include your:

- name, age, weight, height
- medical records

- income, purchases and spending habits
- race, ethnic origin and colour
- blood type, DNA code, fingerprints
- marital status and religion
- education
- employment records
- home address and phone number

WHAT IS NOT COVERED BY THE *PERSONAL INFORMATION PROTECTION ACT*?

Section 4(3) of the Act states the circumstances under which the Act does not apply. Among other things, the Act does not apply to:

- personal information in the custody of an organization where Alberta's *Freedom of Information and Protection of Privacy Act* already applies to the information,
- personal information that is in the custody or control of a public body,
- personal information collected, used or disclosed solely for artistic or literary purposes,
- personal information collected, used or disclosed solely for personal or domestic purposes,
- business contact information collected, used or disclosed solely for the purpose of contacting an individual in his or her capacity as an employee or official of an organization. Business contact information includes an individual's name, position name or title, business address, telephone or fax number, or e-mail address and other similar business information.

HOW DOES THE ACT AFFECT INDIVIDUALS?

PIPA gives you the right to:

- know why an organization collects, uses or discloses your personal information,
- expect an organization to collect, use or disclose your personal information for reasonable purposes only,
- expect an organization to make reasonable security arrangements to protect your personal information,
- expect an organization to make a reasonable effort to ensure that personal information collected, used or disclosed is accurate and complete,
- access your personal information, subject only to exceptions outlined in the Act; you can also request corrections of your personal information,
- complain to the OIPC about an organization's compliance with the PIPA.

The law requires organizations to:

- obtain your consent when they collect, use or disclose your personal information, except in specific circumstances as outlined in the Act,
- supply a product or a service even if you refuse consent for collection, use or disclosure of personal information, unless the information is essential to the transaction,
- collect information by fair and lawful means,
- develop and follow personal information policies, and make information about these policies and practices available on request.

HOW TO REQUEST ACCESS TO YOUR PERSONAL INFORMATION

In order to obtain access to your personal information, you must submit a written request to the organization, providing enough detail so that the organization can identify the requested information (for example, dates, account numbers, and the names or positions of people dealt with at the organization).

The organization must respond to a request for access within 45 days, unless the timeline has been extended as allowed by s. 31 of the Act. The organization may charge a reasonable fee for access to information; however, fees cannot be charged for access to personal employee information.

HOW TO CORRECT ERRORS OR OMISSIONS IN PERSONAL INFORMATION

If you believe there is an error or omission in your personal information under the control of an organization, you must submit a written request for correction to the organization explaining the requested correction. You must provide copies of any documents that support the request.

If the organization refuses to correct the personal information, it must attach your request for correction to the record.

HOW TO MAKE A COMPLAINT TO THE OIPC

You may make inquiries to the OIPC on whether an organization's personal information practices are compliant with PIPA. For example, if you:

- experience difficulties obtaining your personal information,
- are refused your request to correct or amend information,
- suspect your personal information has been improperly collected, used or disclosed, or
- believe an organization is not following any provision of the PIPA.

If you have not already attempted to resolve the dispute with the organization the OIPC may refer you back to the organization, or to an alternative dispute resolution process subscribed to by the organization (e.g. its business sector association).

In most cases, organizations have the first chance to settle a dispute. Nevertheless, if you are alleging unauthorized destruction of documents, or if you have an adversarial relationship with the organization, the Commissioner may decide to take the complaint directly.

The OIPC expects that organizations will prefer to resolve privacy complaints and maintain goodwill. However, if you are not satisfied with the response you receive from an organization, you may contact the OIPC. There is no fee for making a complaint to the OIPC. All complaints and requests for review must be in writing.

For more information about resolving privacy disputes, see the publication *Tips for Individuals: Effective Resolution of Disputes about Personal Information*, available on the OIPC website at http://www.oipc.ab.ca/ims/client/upload/Tips_for_Individuals_4Jan2.pdf.

GENERAL OVERVIEW OF COMMISSIONER'S RESPONSIBILITIES, FUNCTIONS AND AUTHORITY

The Commissioner's role is laid out in Part 4 and Part 5 of the Act. The general responsibilities, specific powers, protections and confidentiality provisions are outlined in these sections, as well as procedural requirements for investigations, mediation and inquiries.

The Commissioner is responsible for monitoring how PIPA is administered to ensure its purposes are achieved. The Commissioner's authority under s. 36 includes investigating compliance complaints, initiating investigations, informing the public, inviting comments on the Act, commissioning research and advising organizations on their obligations.

The Commissioner has the power to review the collection, use and disclosure actions and decisions of organizations under PIPA. For example, the Commissioner can review or investigate:

- any decision, action or failure to act by an organization that has been asked to give access to or to correct personal information,
- a claim by an individual that personal information has been improperly collected, used or disclosed, or
- a complaint about an organization not assisting an applicant, about the time taken to respond to a request, or about the fees charged (s. 36(2)).

The Commissioner can also:

- refer individuals to another grievance, complaint or review process (s. 46(3)),
- give an advance ruling on a matter that could be investigated under the Act (s. 36(3)),
- authorize mediation or investigation to settle a complaint (s. 49),
- hold an inquiry (s. 50),
- issue Orders that are binding (s. 53),
- allow an organization to take more time to respond to an individual's request for personal information (s. 31), and
- authorize an organization not to respond to requests in certain situations (s. 37).

WHAT TO EXPECT WHEN A REQUEST FOR REVIEW OR COMPLAINT HAS BEEN MADE

When your written request for review or complaint is received by the OIPC, a Portfolio Officer is assigned to handle the case and is the single point of contact unless and until the case proceeds to inquiry. When the file is initially opened, the Portfolio Officer contacts both you and the organization, usually by telephone, to advise that the complaint or request for review has been received. The Portfolio Officer then sends an official written notification of receipt of the request to you and the organization.

If the complaint is a request for review, the Portfolio Officer will give the organization a copy of your request for the Commissioner's assistance. A copy of any complaint form or letter may also be included, although the Portfolio Officer may sever confidential information.

CONFIDENTIALITY

As part of an investigation, the Portfolio Officer may request documents and information from both you and the organization. Under s. 38 of the Act, the Commissioner has the authority to

compel production of documents within ten days, but in practice this power is seldom used. All OIPC staff operates under strict confidentiality provisions (s. 41 of PIPA).

The Portfolio Officer may recommend that the organization release documents to you. If the organization disagrees with the recommendation and if the case proceeds to inquiry, an Order might compel the organization to release the records. At no time will the OIPC disclose documents.

Both you and the organization have the opportunity to provide written and verbal information to the Portfolio Officer in confidence or without the other party being present.

MEDIATION/INVESTIGATION

The OIPC prefers to resolve disputes through informal fact-finding, mediation and education processes. The goal of mediation is to attempt to identify solutions that balance your personal information rights with the need of the organization to carry out its business in a reasonable manner. If the dispute can be resolved in mediation, there is no need to proceed to the formal adjudication stage (an inquiry).

At the end of a successful mediation, the Portfolio Officer obtains verbal agreement about the resolution and writes to both you and the organization outlining the agreement, and giving both parties the opportunity to refute matters of fact within a specified timeframe. If both parties agree, the complaint is closed.

In mediation, neither side should need a lawyer. The process is free of cost.

At the end of an investigation, the Portfolio Officer may publish an Investigation Report that names the organization. Published Investigation Reports are posted on the OIPC's website, and are accompanied by a media release.

INQUIRIES AND ORDERS

If a dispute is not resolved in mediation, you may submit a request for formal adjudication (an inquiry) for the Commissioner's consideration. The Commissioner has discretion to decide to proceed with an inquiry. If the matter goes forward, the original Portfolio Officer will no longer be involved; both parties will deal with different staff from the OIPC to ensure impartiality in the process. When hearing an inquiry, the Commissioner operates in a quasi-judicial capacity; strict procedures must be followed to ensure that concepts of administrative justice and fairness are met. Inquiries may be conducted with written submissions or heard orally. You may use a lawyer to prepare or review your submissions, and sworn affidavits may be required.

Unless you withdraw from the dispute, or the matter is settled between you and the organization, an inquiry will lead to a Commissioner's Order. An Order is a written decision to the parties. If the Order requires the organization to do or stop doing something, the organization must follow that Order.

Orders are made available to the public and identify organizations. If the matter decided by an Order provides new precedent, the case may also be described in the Commissioner's Annual Report to the Legislature.

Orders are final under s. 53 and enforceable under s. 52(6). Organizations have 50 days to comply with an Order.

If the Commissioner should find that there is foundation for the complaint, s. 60 gives you a right to pursue damages through the courts. The OIPC is not a party to court actions for civil damages; the Commissioner's involvement ends with the Order and monitoring compliance with the Order.

CONTACT INFORMATION

If you have questions about your rights under the *Personal Information Protection Act*, the role of the OIPC in investigating and mediating a privacy dispute, or if you wish to make a complaint under PIPA, please write or call:

Office of the Information and Privacy Commissioner of Alberta
Suite 2460, 801 – 6th Avenue SW
Calgary, AB
T2P 3W2

Phone: (403) 297-2728
Fax: (403) 297-2711
Toll Free: 1-888-878-4044