
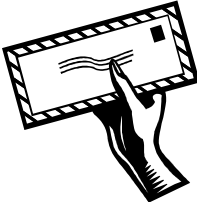



Handling Requests for Access

Selected provisions from private sector privacy acts and regulations


This document was prepared to provide participants with a high-level summary and comparison of the provisions contained in Alberta's and British Columbia's *Personal Information Protection Acts* (PIPA) and the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA), relevant to processing access requests. **It is not intended to be, nor is it a substitute for, legal advice. For the exact wording and interpretation of PIPA, please read the legislation in its entirety.**

TOPIC	ALBERTA PIPA	BRITISH COLUMBIA PIPA	PIPEDA
What is a request?			
Who can make a request? 	<ul style="list-style-type: none"> - An individual 18 or over - An individual under 18 who understands his rights and the consequences – otherwise, his guardian - Certain individuals may act for the deceased and dependent or incapacitated adults - A person with written authorization to act on the individual's behalf [s.61] 	<ul style="list-style-type: none"> - An individual 18 or older - A guardian of a minor if the minor is incapable of understanding his rights - Certain individuals may act for the deceased and dependent or incapacitated adults - A representative of the individual [Reg. ss. 2-4] 	
Form of request 	<ul style="list-style-type: none"> - Applicant must set out sufficient detail in writing to enable the organization with reasonable effort to identify the information [s.26(1)] - Organization may provide alternate means to make a request (e.g. oral request) if the applicant is unable to make a written request [Reg. s.10] 	<ul style="list-style-type: none"> - Applicant must set out sufficient detail in writing to enable the organization with reasonable effort to identify the information [s.27] 	<ul style="list-style-type: none"> - In writing [s.8(1)] - Applicant may be required to provide sufficient information to permit the organization to identify the information [Schedule 1, 4.9.2]
Topic of request	<ul style="list-style-type: none"> - Access to personal information about the individual in the custody or control of the organization [s.24(1)(a)] 	<ul style="list-style-type: none"> - Access to personal information about the individual in the control of the organization [s.23(1)(a)] 	<ul style="list-style-type: none"> - Access to personal information about the individual [Schedule 1, 4.9]


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Deliverable 	<ul style="list-style-type: none"> - A copy of the record [s.30(a)(i)] - Examination of the original record [s.26(2)] - If examining the original record would unreasonably interfere with operations or result in the disclosure of information that is not permitted under the Act or may result in harm to the record, the organization may provide a copy of the record [Reg. s. 9(1)] 	<ul style="list-style-type: none"> - A copy of the record - An opportunity to examine the personal information if a copy cannot be reasonably provided [s.28(c)] 	<ul style="list-style-type: none"> - Access to the information [Schedule 1, 4.9] - Access to the information in an alternative format if requested by an individual with a sensory disability, if the information is already in that format or the conversion is reasonable and necessary for the individual to exercise their right of access [s.10]
Duty to assist – An organization must	Make every reasonable effort <ul style="list-style-type: none"> - To assist applicants and - To respond as accurately and completely as reasonably possible - Explanation of terms, if requested [s.27] 	Make a reasonable effort <ul style="list-style-type: none"> - To assist applicants and - To respond as accurately and completely as reasonably possible [s.28] 	<ul style="list-style-type: none"> - Assist any individual who informs the organization that they need assistance in preparing a request to the organization [s.8(1)]
Time lines for responding			
Time limit	45 calendar days [s.28]	30 working days [s.29]	30 calendar days [s.8(3), Schedule 1, 4.9.4]
Extension by organization	30 calendar days [s.31(1)]	30 working days [s.31(1)]	<ul style="list-style-type: none"> - 30 calendar days [s.8(4)] - Longer than 30 days if needed to convert personal information into an alternative format [s.8(4)(b)]
Extension with Commissioner's permission	As approved by the Commissioner [s.31(1)]	As approved by the Commissioner [s.31(1)]	

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Grounds for extension	<ul style="list-style-type: none"> - Applicant did not provide sufficient detail to identify information or record - Large volume of records requested or must be searched - Meeting time limit would unreasonably interfere with operations - More time needed to consult with an organization or public body [s.31(1)] 	<ul style="list-style-type: none"> - Applicant did not provide sufficient detail to identify information or record - Large volume of records requested or must be searched and meeting time limit would unreasonably interfere with operations - More time needed to consult with an organization or public body [s.31(1)] 	<ul style="list-style-type: none"> - Meeting the time limit would unreasonably interfere with the organization's activities - More time needed for consultations [s.8(4)(a)] - More time needed to convert personal information into an alternative format [s.8(4)(b)]
If timeline extended by the organization/Commissioner the organization must tell the applicant:	<ul style="list-style-type: none"> - Reason for the extension - New due date - That the extension can be appealed to the Commissioner [s.31(2)] 	<ul style="list-style-type: none"> - Reason for the extension - New due date - That the extension can be appealed to the Commissioner [s.31(2)] 	<ul style="list-style-type: none"> - Reason for the extension - New due date - That the extension can be appealed to the Commissioner [s.8(4)]
Deemed refusal			If the organization does not respond within the time limit, the organization is deemed to have refused the request. [s.8(5)]
Fees			
Fees – personal information 	May charge a reasonable fee [s.32(1)]	May charge a minimal fee [s.32(2)]	May charge a minimal fee [Schedule 1, 4.9.4]
Fees – personal employee information	No fee [Reg. s.18]	No fee [s.32(1)]	May charge a minimal fee (right of access applies only to employees of federally regulated industries) [Schedule 1, 4.9.4]

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Fees – correction	No fee [s.32(2)]		
Written estimate required	Must give the applicant a written estimate of the total fee before providing the service, and may require a deposit [s.32(3)]	Must give the applicant a written estimate of the total fee before providing the service, and may require a deposit [s.32(3)]	May charge a fee only if the organization has provided an estimate and the individual has advised the organization that the request is not being withdrawn [s.8(6)]
Stopping the clock	The clock stops once the estimate is sent to the applicant and resumes when the estimate has been accepted, and, the deposit paid if necessary [Reg. s.15]		
Acceptance of estimate	If applicant does not respond to the estimate within 30 days, the organization may consider the applicant's request to have been withdrawn [Reg. s.16]		
Fees owing 	Records may be withheld until fees are paid [Reg. s.17]		
Stopping the clock for fee review request	The 45-day period does not include the period from the day the applicant asks for the review to the day in which the decision is made [s.28(4)]	The 30-day period does not include the period from the day the applicant asks for the review to the day the decision is made [s.29(3)]	

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Frivolous and vexatious requests			
If requested, the Commissioner may authorize the organization to disregard a request if:	<ul style="list-style-type: none"> - Because of its repetitious or systematic nature, the request would unreasonably interfere with operations or amount to an abuse of the right to make a request - The request is frivolous or vexatious [s.37] 	<ul style="list-style-type: none"> - Because of its repetitious or systematic nature, the request would unreasonably interfere with operations or amount to an abuse of the right to make a request - The request is frivolous or vexatious [s.37] 	
Stopping the clock for 'Authorization to Disregard' a request	The 45-day period does not include the period from the day the organization requests authorization, to the day the decision is made [s.37]	The 30-day period does not include the period from the day the organization requests authorization, to the day the decision is made [s.29(2)]	
Contents of a response			
An organization must inform the applicant	<ul style="list-style-type: none"> - Whether the applicant will be given access to all or part of the requested information - When access will be given (date) [s.29(a)&(b)] 		
If access is refused, the organization must inform the applicant	<ul style="list-style-type: none"> - The reasons and sections applied - Name of staffer who can answer questions - That the applicant can request a review by the Commissioner [s.29(c)] 	<ul style="list-style-type: none"> - The reasons and sections applied - Contact information for a staffer who can answer questions - That the applicant can request a review by the Commissioner [s.30(1)] 	<ul style="list-style-type: none"> - Reasons for refusal - Recourse to the Commissioner [s.8(7)]

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Exceptions to disclosure			
May refuse to disclose	<ul style="list-style-type: none"> - Legal privilege applies - Disclosure would reveal “confidential” commercial information - Information was collected for an investigation or legal proceeding - Disclosure would result in information no longer being supplied - Information was collected by a mediator or arbitrator - Information relates to prosecutorial discretion [s.24(2)] 	<ul style="list-style-type: none"> - Solicitor-client privilege applies - Disclosure would reveal “confidential” commercial information - Information was collected for an investigation and the investigation and related proceeding are not complete - Information was collected by a mediator or arbitrator - Credit reporting agencies are not required to release certain information [s.23(3)] 	<ul style="list-style-type: none"> - Solicitor-client privilege applies - Disclosure would reveal confidential commercial information - Disclosure would threaten the life or security of another individual - Information was collected for an investigation - Information was generated in a formal dispute resolution process [s.9(3)]
Must refuse to disclose	<ul style="list-style-type: none"> - Disclosure would threaten the life or security of another individual - Personal information of another individual - Opinion provided in confidence [s.24(3)] 	<ul style="list-style-type: none"> - Disclosure would threaten the safety or physical or mental health of another individual - Disclosure would cause immediate or grave harm to the safety or to the physical or mental health of the applicant - Personal information of another individual - Opinion provided in confidence [s.23(4)] 	<ul style="list-style-type: none"> - Disclosure likely to reveal personal information of another individual, unless that individual consents or the applicant needs the information because of a threat to their life, health or security [s.9(1)]
Severing			
If an organization can reasonably sever a record, it must provide access after severing if the reason for withholding the information is:	<ul style="list-style-type: none"> - Disclosure would reveal “confidential” commercial information - Disclosure would threaten the life or security of another individual - Personal information of another individual - Opinion provided in confidence [s.24(4)] 	<ul style="list-style-type: none"> - Disclosure would threaten the safety or physical or mental health of another individual - Disclosure would cause immediate or grave harm to the safety or to the physical or mental health of the applicant - Personal information of another individual - Opinion provided in confidence [s.23(5)] 	<ul style="list-style-type: none"> - Disclosure likely to reveal personal information of another individual [s.9(1)] - Disclosure would reveal confidential commercial information - Disclosure would threaten the life or security of another individual [s. 9(3)]

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Correction			
An individual can ask an organization to correct:	<ul style="list-style-type: none"> - An error or omission in the personal information in the control of the organization [s.25(1)] - An opinion (including expert or professional) must not be altered [s.25(5)] 	<ul style="list-style-type: none"> - An error or omission in the personal information in the control of the organization [s.24(1)] 	<ul style="list-style-type: none"> - Inaccurate or incomplete personal information [Schedule 1, 4.9]
If there is an error or omission in personal information, the organization must:	<ul style="list-style-type: none"> - Correct the information as soon as possible - If the information has been disclosed, notify the organization that received the information, if reasonable to do so [s.25(2)] 	<ul style="list-style-type: none"> - Correct the information as soon as possible - If the information has been disclosed, notify any organization that received the information in the last year [s.24(2)] 	<ul style="list-style-type: none"> - Amend the information as required – by correcting, deleting or adding information - Where appropriate, notify third parties having access to the personal information [Schedule 1, 4.9.5]
If the organization decides not to correct the information, the organization must:	Note that a correction was requested but not made [s.25(3)]	Note that a correction was requested but not made [s.24(3)]	<ul style="list-style-type: none"> - Note that a challenge was made - Where appropriate, notify third parties having access to the personal information [Schedule 1, 4.9.6]
If an organization receives a notice of correction:	The organization must correct the personal information in its custody or control [s.25(4)]	The organization must correct the personal information under its control [s.24(4)]	
Request for Review			
An individual may ask the Commissioner to review:	Any decision, act or failure to act of the organization [s.46(1)]	Any decision, act or failure to act of the organization [s.46(1)]	A contravention of the rules on access (Division 1 of the Act) or for not following a recommendation in Schedule 1 [s.11(1)]
Form of request for review	In writing within 30 days unless a longer period is allowed by the Commissioner [s.47(2)]	In writing (implied) within 30 days unless a longer period is allowed by the Commissioner [s.47(2)]	In writing within 6 months unless a longer period is allowed by the Commissioner [s.11(1)&(3)]