

**ACCESS**

# The Appeal Process and Ontario's Information and Privacy Commissioner



Information and Privacy  
Commissioner of Ontario

Commissaire à l'information et à la  
protection de la vie privée de l'Ontario

Ontario's *Freedom of Information and Protection of Privacy Act* and *Municipal Freedom of Information and Protection of Privacy Act* give you the right to request access to government-held information. This includes information about yourself. You can also request a correction of your personal information.

These laws apply to institutions such as:

- provincial ministries
- agencies
- universities
- hospitals,
- municipalities
- police services boards
- school boards

The laws also allow institutions to **deny** you access to certain types of information, such as the personal information of another person. They can also refuse your request for correction.

You have the right to file an appeal if you disagree with an institution's decision about your request. You can also file an appeal if an institution has decided to disclose information about you or your business to someone else.

## FREQUENTLY ASKED QUESTIONS

### I'M NOT SATISFIED WITH THE INSTITUTION'S DECISION REGARDING AN ACCESS OR CORRECTION REQUEST. WHAT CAN I DO?

You can file an appeal with the Office of the Information and Privacy Commissioner of Ontario (IPC).

#### WHAT IS AN APPEAL?

An appeal is a way to ask for a review of a public sector organization's access or correction decision.

#### DO I HAVE TO PAY TO MAKE AN APPEAL?

Yes, in most cases. If you requested access to or correction of your own personal information, the appeal fee is \$10. For a request for other records, the appeal fee is \$25.

Include the fee when you send the appeal to the IPC. You can pay by cheque or money order, payable to "The Minister of Finance." If you are appealing an organization's decision to release your personal information or business information to someone else, you do not have to pay a fee.

#### WHY WOULD I APPEAL?

You might decide to appeal for many reasons, including:

- the institution denied your access or correction request
- the institution wants to charge you for photocopying, shipping or other costs (access fees) and you do not agree with the amount
- the institution didn't respond to your request (a public institution has 30 days to give you a decision)
- the institution wants to take longer to provide you with a decision, and you don't agree
- you do not agree with an institution's decision to release your personal or business information to another person

#### IF SOMEONE ELSE HAS REQUESTED INFORMATION ABOUT ME OR MY BUSINESS, CAN I APPEAL THE INSTITUTION'S DECISION TO GIVE IT TO THEM?

Yes. The institution will notify you if it has decided to release records that contain information about you or your business to a requester. If you don't agree with their decision, you can file an appeal with the IPC.

#### HOW DO I APPEAL?

You have 30 days after receiving a decision to file an appeal. Follow these steps:

1. Print out and complete the **appeal form** from the Forms section of the IPC website ([www.ipc.on.ca](http://www.ipc.on.ca)) or write a letter to the IPC describing the situation. Be sure to include all the information, such as the name of the institution and the file number assigned to your request
2. Attach a copy of the institution's decision letter
3. Include a copy of your request

#### 4. Include the appropriate appeal fee

If you are appealing an institution's decision that "no records exist," you must tell the IPC why you think the records exist.

#### **DO I NEED A LAWYER?**

No. You do not need to hire a lawyer for the IPC's appeal process. However, you can use the services of a lawyer if you wish.

#### **IS MY APPEAL AUTOMATICALLY ACCEPTED?**

The registrar at the IPC reviews the appeal letter or form to determine how to process your file. At this stage, an analyst may contact you to get more information or documentation and to explain the appeal process. The analyst may also direct you to another government body if it is in a better position to deal with the situation. Appeals can be resolved quickly at this early stage.

The registrar and analysts have the power to dismiss an appeal at this stage if they decide that the full appeal process isn't required. This can happen, for example, if you requested information that isn't covered by provincial access laws (such as information from a federal institution or a business).

#### **WHO WILL PARTICIPATE IN THE APPEAL?**

Both the requester and the institution participate in the appeal. Depending on the situation, "affected parties" may also participate – these are any others people (like a business or a person) affected by the request.

#### **IF MY APPEAL PROCEEDS, WHAT HAPPENS NEXT?**

You will receive a written confirmation that outlines the next step in processing your case. The IPC tries to resolve as many appeals as it can informally, and sends most files to mediation. However, in some cases, appeals go directly to adjudication.

#### **WHAT IS MEDIATION?**

Mediation is a process where a neutral person (the IPC mediator) tries to help you and the other parties settle some or all of the issues.

#### **HOW DOES MEDIATION WORK?**

The mediator gathers all the information related to the appeal, such as copies of any correspondence or documentation. They need to understand the type of information that was requested.

The mediator works with the parties to help simplify the appeal, reduce the number of records in dispute, clarify the issues and improve the parties' understanding of the law. They can't impose a solution on you. Rather, the mediator helps the parties agree to a settlement.

Successful mediation requires the commitment of all parties. It is best if you approach mediation with an open mind and a willingness to listen to the other parties' views. You should commit to being flexible to reach a good outcome.

#### **WHAT HAPPENS IF THE MEDIATION IS UNSUCCESSFUL?**

In the majority of cases, mediation is successful. In situations where mediation is not entirely successful, the mediator will prepare a report

that summarizes what happened during mediation and identifies the issues that were not resolved. After each party has had a chance to review the mediator's report, the file goes to the adjudication stage.

### **WHAT IS ADJUDICATION AND WHAT DOES THE ADJUDICATOR DO?**

Adjudication is a process where the issues in an appeal are examined and a decision, or order, is made about the appeal. An adjudicator is the decision maker responsible for looking into the issues. We call this process an inquiry. The adjudicator starts the inquiry by preparing and sending a Notice of Inquiry to the parties. In the Notice of Inquiry, the adjudicator describes the facts and issues, such as what is and is not in dispute, and may ask specific questions. The adjudicator also includes a summary of legal rules and IPC or court decisions that are relevant to the decision.

### **WHAT HAPPENS IN AN INQUIRY?**

In most cases, the adjudicator will ask all parties to submit written representations on the facts and issues described in the Notice of Inquiry. This is your opportunity to let the adjudicator know your views. The more specific you make your representations, and your answers to the questions, the more helpful it is to the adjudicator. The Notice of Inquiry includes a deadline for all written representations. You must submit your representations by that date.

### **WHAT ARE REPRESENTATIONS?**

Representations are the arguments and information you give to the adjudicator to persuade them to decide an appeal in a particular way.

### **WHY AM I BEING ASKED TO MAKE REPRESENTATIONS?**

The IPC appeal process allows all of the parties to comment on whether the information should or should not be disclosed.

For example, the adjudicator may ask an affected party to provide representations when it appears that the requested records contain their personal or business information. A requester may be asked to provide representations to explain why they think the information they have requested should be released.

### **AM I REQUIRED TO MAKE REPRESENTATIONS?**

No, you are not required to make representations. However, if you choose not to make representations, the adjudicator won't be able to consider your views.

### **WHY DO I HAVE TO PROVIDE REPRESENTATIONS WHEN I ALREADY SPOKE WITH AND GAVE DOCUMENTS TO A MEDIATOR?**

Mediation and adjudication are two distinct steps of the appeal process. The adjudicator decides your appeal based on the written representations and only looks at a limited amount of material given during mediation.

### **IF I HAVE MORE QUESTIONS, WHO CAN ANSWER THEM?**

If you have any questions about the appeal process or about Ontario's access and privacy legislation, please contact an IPC Information Officer at [info@ipc.on.ca](mailto:info@ipc.on.ca).

## About the IPC

The role of the Information and Privacy Commissioner is set out in the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. The commissioner is appointed by the Legislative Assembly of Ontario and is independent of the government of the day.



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