

**ACCESS TO INFORMATION PROTECTION
OF PERSONAL INFORMATION**

**What are your rights?
How to make a request?**



Commission
d'accès à l'information
du Québec

THE COMMISSION D'ACCÈS À L'INFORMATION: SERVING THE PUBLIC SINCE 1982



THE COMMISSION EXERCISES TWO IMPORTANT FUNCTIONS:

Administrative Tribunal

On request, the Commission d'accès à l'information reviews decisions rendered by a public body which refuses to give access to a document concerning one's personal information, or to correct or destroy personal information concerning this very individual.

On request, the Commission decides on disagreements that arise when an enterprise refuses to give an individual access to his or her personal information, or to correct or destroy this information to remove it from a nominative list used for purposes of commercial or philanthropic prospection.

Monitoring Body

The Commission monitors and controls collection, use, retention and communication of personal information, both by public bodies and by enterprises. To carry out this mandate, the Commission conducts inspections as well as inquiries.

The Commission d'accès à l'information is the public body responsible for the application of two laws:

1. *The Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*
2. *The Act Respecting the Protection of Personal Information in the Private Sector*

ACCESS TO DOCUMENTS AND PROTECTION OF PERSONAL INFORMATION IN PUBLIC BODIES

Access to administrative documents and confidentiality of the personal information held by public bodies are rights recognized by *The Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*.

The main bodies covered by the Act

About 2,800 Québec public bodies are subject to the Access Act, particularly:

- government departments and agencies;
- municipalities and public bodies;
- school service centres, certain private colleges, school boards, general and vocational colleges (Cégeps) and universities;
- health and social services institutions;
- professional orders (concerning documents held relating to control of professional practice).

PROTECTION OF PERSONAL INFORMATION IN PUBLIC BODIES

The Act imposes obligations on public bodies regarding collection, retention, use and communication of personal information.

For example, public bodies:

- may collect personal information only if it is necessary for the exercise of their rights and powers or for the implementation of a program under their management;
- must, before collecting your personal information, inform you, in particular, of the purposes for which this information is collected, the categories of persons who will have access to the information and the rights of access and rectification provided by the Act;
- may use your personal information only for the purposes for which it was collected, with certain exceptions;
- must take security measures to ensure protection of the personal information they hold;
- must ensure that your personal information is up to date, accurate and complete to serve the purposes for which it is collected or used;
- must destroy this information when the purposes for which it was collected or used have been achieved.

ACCESS TO DOCUMENTS AND PERSONAL INFORMATION: WHAT ARE YOUR RIGHTS IN THE PUBLIC SECTOR?

With certain exceptions, public bodies must:

1. give you access to all the documents they hold in the performance of their duties, regardless of the form of these documents: written, graphic, audio, video or computerized form or other;
2. give you access to your personal information and allow you to obtain rectification of information that is inaccurate or incomplete, for example.

COMPLAINTS CONCERNING ACCESS TO DOCUMENTS AND THE PROTECTION OF PERSONAL INFORMATION IN THE PUBLIC SECTOR

The Commission can receive your complaints if you have reasons to believe that a public body has not respected its obligations under the Access Act. You must address your complaint to the Commission in writing and attach any relevant information.

HOW TO MAKE A REQUEST FOR ACCESS OR RECTIFICATION TO A PUBLIC BODY?

| STEPS | PROCEDURES |
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| <p>1. SENDING A REQUEST TO A PUBLIC BODY:</p> <p>request for access to administrative documents</p> <p>request for access to personal information</p> <p>request for correction of personal information</p> | <p>You must address your request to the person in charge of access to documents and protection of personal information of the public body concerned. You will find sample letters and the list of these persons at www.cai.gouv.qc.ca.</p> <p>FOR ADMINISTRATIVE DOCUMENTS:</p> <p>Your request to the person in charge of access can be made in writing or orally. However, in case of refusal, only a written request will allow the Commission to review the decision of the person in charge.</p> <p>FOR ACCESS OR RECTIFICATION OF YOUR PERSONAL INFORMATION</p> <ul style="list-style-type: none"> • You can only have access to your own personal information. • You can ask the person in charge to correct your personal information if it is inaccurate or incomplete, for example. • You must address your request in writing to the person in charge of access. |
| <p>2. TIME LIMIT TO RESPOND</p> | <p>The person in charge must respond to your request for access or rectification within 20 days following its receipt. However, he may extend this time limit by a maximum of 10 days, if necessary. When this time limit expires, the absence of a response by the person in charge is equivalent to a denial.</p> |
| <p>3. CONDITIONS OF ACCESS AND COSTS</p> | <p>You may choose:</p> <ul style="list-style-type: none"> • to consult the documents on site; • to consult them electronically, when it is possible; • to obtain a copy of these documents. <p>Consultation on site is free of charge. The public body may charge fees for transcription, transmission or copying.</p> <p>If you are a handicapped person, you may request that reasonable accommodation be provided to enable you to exercise your right of access.</p> |
| <p>4. IN CASE OF REFUSAL: APPLICATION FOR REVIEW TO THE COMMISSION D'ACCÈS À L'INFORMATION</p> | <p>Within 30 days after the date of the person in charge of access decision or the expiry of the time limit to respond, apply for review of this decision by writing to the Commission d'accès à l'information.</p> <p>You will find a sample application for review at www.cai.gouv.qc.ca.</p> |
| <p>5. DECISION OF THE COMMISSION</p> | <p>The Commission acts as an administrative tribunal. All the parties have the opportunity to present their evidence and argue their point of view in front of an administrative judge, who generally has a time limit of three months to render a decision.</p> <p>You may be asked to collaborate in a mediation process, when the situation is appropriate.</p> |



ACCESS TO PERSONAL INFORMATION IN ENTERPRISES: WHAT ARE YOUR RIGHTS?

With certain exceptions, the enterprises must:

1. give you access to your personal information;
2. allow you to obtain rectification of your personal information which is inaccurate or incomplete, for example.

COMPLAINTS CONCERNING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

The Commission may receive your complaints if you have reasons to believe that an enterprise has not respected its obligations under the Act Respecting the Protection of Personal Information in the Private Sector. You must address your complaint to the Commission in writing and attach any relevant information.

PROTECTION OF PERSONAL INFORMATION IN ENTERPRISES

Protection of personal information is an aspect of your right to privacy. This fundamental right must be respected by enterprises under the *Act Respecting the Protection of Personal Information in the Private Sector*. This Act provides that personal information concerning you is confidential.

What enterprises are subject to the Act?

Persons carrying on an enterprise in Québec who collect, hold, use or communicate personal information are subject to this Act, with certain exceptions. In addition, the professional orders are subject to this Act concerning personal information other than information held regarding control of professional practice.

PROTECTION OF PERSONAL INFORMATION IN ENTERPRISES

The Act imposes obligations on enterprises concerning the collection, retention, use and communication of personal information.

For example, enterprises:

- must only collect personal information necessary for the object of the file;
- must inform you of the reason why the information is requested, the use that will be made of the information and the categories of persons who will have access to this personal information;
- must inform you of your rights of access and rectification and the place where your file will be held;
- must take the security measures necessary to ensure the protection of the personal information;
- must, in certain cases, obtain your consent to use or to communicate your personal information to third persons;
- must ensure that your personal information is up to date and accurate when it is used to make a decision related to you.

HOW TO MAKE A REQUEST FOR ACCESS TO PERSONAL INFORMATION OR A REQUEST FOR RECTIFICATION TO AN ENTERPRISE?

| STEPS | PROCEDURES |
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| 1. SENDING A REQUEST TO AN ENTERPRISE: request for access to personal information request for rectification of personal information | You can only have access to your own personal information. For example, you may request rectification of your personal information if it is inaccurate or incomplete. You must address a written request to the enterprise. You will find sample letters at www.cai.gouv.qc.ca . |
| 2. TIME LIMIT TO RESPOND | The enterprise must respond to your request for access or rectification of personal information within 30 days after its receipt. Absence of a response from the enterprise upon the expiry of this time limit is deemed to have denied access to the document requested. |
| 3. CONDITIONS OF ACCESS AND COSTS | <p>You may choose:</p> <ul style="list-style-type: none">• to consult your personal information on site;• to consult your personal information electronically, when it is possible;• to obtain a copy to these documents. <p>Consultation of personal information is free of charge. Reasonable fees may be charged for its transcription, reproduction or transmission.</p> <p>If you are a handicapped person, you may request that reasonable accommodation be provided to enable you to exercise your right of access.</p> |
| 4. IN CASE OF REFUSAL: APPLICATION FOR EXAMINATION OF A DISAGREEMENT TO THE COMMISSION D'ACCÈS À L'INFORMATION | If you have sent a written request for access or rectification to an enterprise, you may, within 30 days after the refusal or the expiry of the time limit to respond, apply for an examination of this disagreement by writing to the Commission. You will find a sample application for examination of a disagreement at www.cai.gouv.qc.ca . |
| 5. DECISION OF THE COMMISSION | <p>The Commission acts as an administrative tribunal. All the parties have the opportunity to present their evidence and argue their point of view in front of an administrative judge, who generally has a time limit of three months to render a decision.</p> <p>You may be asked to collaborate in a mediation process, when the situation is appropriate.</p> |



NOMINATIVE LISTS USED FOR COMMERCIAL OR PHILANTHROPIC PURPOSES

A nominative list is a list of names, telephone numbers, geographical addresses or technological addresses of natural persons. The Act applicable to the private sector allows enterprises, on certain conditions, to use these lists to sell goods or services or to solicit donations.

Any person may have information concerning him deleted from a nominative list. The request for deletion may be oral or written and addressed to any person who holds or uses the list. You will find a sample request for deletion from a nominative list at www.cai.gouv.qc.ca.

The enterprise must proceed with the deletion diligently and ensure that there is no further solicitation of the person. If the enterprise does not meet your requirement, you may submit an “Application for examination of a disagreement” to the Secretariat of the Commission d'accès à l'information.



The masculine pronoun includes both women and men and is only used to facilitate reading.

This information is only provided for indicative purposes and must not be interpreted in any way as legal opinions. For more details, see, in particular, the Act respecting access to documents held by public bodies and the protection of personal information (CQLR, c. A-2.1) and the Act respecting the protection of personal information in the private sector (CQLR, c. P-39.1). You may also contact the Commission to obtain more information.



TO CONTACT THE COMMISSION D'ACCÈS À L'INFORMATION

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