



**POLICY:** Access to Information under *The Freedom of Information and Protection of Privacy Act* (FIPPA)

**Program Area:** Health Information Services

**Section:** Privacy and Access

**Reference Number:** ORG.1411.PL.002

**Approved by:** Regional Lead-Corporate Services & Chief Financial Officer

**Date:** Issued 2015/April/25  
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*\*\*Capitalized terms have a specific definition.*

**PURPOSE:**

To ensure that an Individual's right of access to any Record in the custody or under the control of the responded to in compliance with *The Freedom of Information and Protection of Privacy Act* (FIPPA).

**BOARD POLICY REFERENCE:**

Executive Limitation (EL-7) – Corporate Risk

**POLICY:**

The Public Body shall ensure that any Individual has the right of access to any Record, including Records containing Personal Information about themselves, in the custody or under the control of the Public Body, subject to the limited and specific exceptions set out in FIPPA.

The Public Body shall maintain a consistent and controlled process for Individuals to obtain access to information in the custody or under the control the Public Body and for the Public Body to permit or refuse such access in accordance with FIPPA.

The Public Body shall protect the property right to Records in the custody or under the control of the Public Body regardless of the medium used (electronic, paper or digital image).

The Public Body will protect the identity of the Applicant throughout the process and may only share the Applicant's identity in accordance with the need-to-know limits set out in both FIPPA and PHIA.

An Applicant requesting access to a Record must submit a request in writing or complete an Application for Access Form ORG.1411.PL.002.FORM.01. Application forms are available from the Access & Privacy Coordinator or an Applicant may be directed to the Government of Manitoba, Finance, Freedom of Information and Protection of Privacy Act website at [https://www.gov.mb.ca/fippa/public\\_bodies/index.html](https://www.gov.mb.ca/fippa/public_bodies/index.html).

Any Persons Associated with the Public Body who receives a request under FIPPA shall date stamp the request and immediately forward it to the Access & Privacy Coordinator.

The Public Body shall make every reasonable effort to assist an Applicant and to respond without delay, openly, accurately and completely.

The Public Body may accept an oral request for access to a Record if an Applicant has a limited ability to read or write English, or has a disability or condition that prevents them from making a written request.

The Public Body shall respond to a request in writing within 45 days after receiving it, unless the time limit for responding is extended under Section 15 of FIPPA or the application has been transferred to another Public Body under Section 16 of FIPPA.

A formal Third Party consultation process must be followed in accordance with Section 33 and 34 of FIPPA when the Public Body is considering giving access to information that might result in an unreasonable invasion of another person's Privacy under Section 17 of FIPPA if disclosed, or affect the interests of a business as described in Section 18(1) or (2) of FIPPA if disclosed.

If the application should be transferred to another Public Body, the Access and Privacy Coordinator may transfer the request as soon as possible and no later than 10 days after receipt.

For applications for access to a Record (under FIPPA) from an Individual that contains their own Personal Health Information, the request or the part of it that relates to their information shall be deemed to be a request under section 5 of *The Personal Health Information Act* (PHIA), and that Act applies as if the request had been made under that section. The Applicant is not required to complete a new request.

The right of access may be subject to the Applicant paying any fees as required in accordance with the regulations under FIPPA and Preparing Fee Estimates under *The Freedom of Information and Protection of Privacy Act* (FIPPA) (ORG.1411.PL.006).

An Applicant may request information in electronic form and the Public Body may provide the information in electronic form if it can be produced using the normal computer hardware and software and technical expertise of the Public Body, and would not interfere unreasonably with the operations of the Public Body.

In addition, if a Record exists but is not in the form requested by the Applicant, the Public Body may create a Record in the form requested if the Public Body agrees it would be simpler or less costly to do so.

If a Record cannot reasonably be reproduced, the Public Body will permit the Applicant to examine the Record or a part of it by giving them access in accordance with the regulations.

The Access & Privacy Officer shall inform the Applicant as to whether access to the Record is granted in full or in part or refused. If granted, where, when and how access will be given and if refused, the reasons for the refusal and the specific provisions of FIPPA on which the refusal is based.

In the case of a Record that exists, but is refused or refused in part, the FIPPA Access & Privacy Officer shall inform the Applicant that they may make a Complaint to the Ombudsman about the refusal.

Any Staff or Person Associated with the Public Body who **willfully** discloses Personal Information in contravention of FIPPA; or makes false statements or misleads, or attempts to mislead, or obstructs the Manitoba Ombudsman or a person in performing their duties or exercising powers under FIPPA; or destroys or erases information in a Record, will be subject to corrective action and, if found guilty of an offence, could be fined up to \$50,000.

The right of access to a record does not extend to information that is excepted from Disclosure under Part 2 of FIPPA, but if that information can reasonably be redacted from the record, an Applicant has a right of access to the remainder of the record.

#### **DEFINITIONS:**

**Access & Privacy Coordinator (FIPPA):** The person at the Public Body who is responsible for receiving FIPPA applications for access to Records, requests for corrections to Personal Information and for the day-to-day administration of FIPPA. This Individual is the public contact for all FIPPA matters in the Public Body and is responsible for ensuring that the Public Body understands the Personal Information protection requirements of FIPPA. In Southern Health-Santé Sud, the FIPPA Access & Privacy Coordinator is the Privacy and Access Specialist.

**Access & Privacy Officer (FIPPA):** A person to whom the head has delegated a duty or power under section 81 of FIPPA. In Southern Health-Santé Sud, this is the Chief Executive Officer (CEO).

**Applicant:** A person who makes a request for access to a Record under section 8 of FIPPA. Applicant includes Persons Authorized to Exercise the Rights of another Individual.

**FIPPA Head:** The person or group of persons designated under FIPPA as the head of a Public Body. FIPPA gives the head of a Public Body the responsibilities for all decisions and actions of the Public Body under FIPPA. The Head may delegate duties of power of the Head under FIPPA. In the Region, the FIPPA Head is the Board Chair.

**Personal Health Information:** Recorded information about an identifiable Individual that relates to:

- the Individual's health, or health care history, including genetic information about the Individual;
- the provision of health care to the Individual; or
- payment for health care provided to the Individual; and

as more particularly defined in PHIA.

**Personal Information:** Recorded information about an identifiable Individual, as more particularly defined in FIPPA.

**Public Body:** A local Public Body such as an educational body, a health care body, and a local government body. Within the Public Body means any of the entities that comprise the Region i.e. sites, facilities, community offices, etc.

**Record or Recorded Information:** A Record of information in any form, and includes information that is written, photographed, Recorded or stored in any manner, on any storage medium or by any means including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces Records.

**Third Party:** Any person, group of persons, business or organizations other than the Applicant or a Public Body.

ORG.1411.PL.001.SD.01 FIPPA Definitions

#### **IMPORTANT POINTS TO CONSIDER:**

In the exceptional situations described in Subsection 13(1) of FIPPA, the Public Body may refuse to deal with an access request. The ability to refuse access for any of those **reasons must be exercised sparingly, and on strong grounds.**

The Access & Privacy Officer may extend the time for responding to a request for up to an additional 30 days, or for a longer period, if the Ombudsman agrees, for purposes as outlined in Subsection 15(1) of FIPPA.

All responsive Records must be reviewed line by line to determine if one or more exceptions to Disclosure applies to any Record or information within a Record.

A person is not required to complete an application for access under FIPPA for Records, or a category of Records, that are under the control or custody of the Public Body that are available to the public free of charge or for purchase.

The failure of the head of a Public Body to respond to a request within the 45-day period or any extended period is to be treated as a decision to refuse access to the Record.

#### **PROCEDURE:**

##### **Request for Access Response Coordination**

*Follow the processes as outlined in the supporting documents noted below:*

- ORG.1411.PR.001 - Request for Access Response Coordination Process under *The Freedom of Information and Protection of Privacy Act* (FIPPA)
- ORG.1411.PL.002.SD.01 - Request for Access Response Coordination Process Flow Chart

### **Third Party Consultations Process**

*Follow the processes as outlined in the supporting documents noted below:*

- ORG.1411.PR.002 – Third Party Consultation Process.
- ORG.1411.PL.002.SD.02 - Third Party Consultations Process Flow Chart

### **SUPPORTING DOCUMENTS:**

[ORG.1411.PL.002.FORM.01](#) - Application for Access Form

[ORG.1411.PL.002.SD.01](#) - Request for Access Response Coordination Process Flow Chart

[ORG.1411.PL.002.SD.02](#) - Third Party Consultations Process Flow Chart

### **REFERENCES:**

*The Freedom of Information and Protection of Privacy Act, C.C.S.M. c. F175*

*The Personal Health Information Act, C.C.S.M. c. P33.5*

Access and Privacy Regulation

ORG.1411.PL.006 - Preparing Fee Estimates under *the Freedom of Information and Protection of Privacy Act* (FIPPA).

ORG.1411.PL.001.SD.01 - [FIPPA Definitions](#)

ORG.1411.PR.001 - Request for Access Response Coordination Process under *The Freedom of Information and Protection of Privacy Act* (FIPPA)

ORG.1411.PR.002 – Third Party Consultation Process under *The Freedom of Information and Protection of Privacy Act* (FIPPA)

FIPPA Resource Manual

Manitoba Ombudsman’s Privacy Notes

The Information and Privacy Police Secretariat (IPPS)