

Alberta's *Personal Information Protection Act* (PIPA) describes how your organization should handle its customers' and employees' personal information. The Act came into effect in Alberta on January 1, 2004. This document summarizes key obligations from the Act.

The organizations regulated by the Act include corporations, unincorporated associations, trade unions, partnerships, and individuals running their own businesses.

Special rules apply to non-profit organizations and self-governing professional associations. PIPA doesn't apply when you collect, use or disclose personal information for domestic, artistic, literary or journalistic purposes.

### **Your organization's PIPA responsibilities**

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You are responsible for all personal information in your custody or under your control — in other words, even information with your contractor.

To coordinate the requirements of PIPA, an organization must choose an individual to be responsible for compliance with the Act. You should release the individual's name if requested.

The Act uses the "reasonable person test" for deciding whether an organization has carried out its PIPA responsibilities. The test refers to what a reasonable person would think appropriate in the circumstances.

### **Gaining consent to collect personal information**

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Your organization needs consent to collect personal information from an individual or another source, and to use and disclose it. The exception is when PIPA says consent is not needed. The three forms of consent are express (written or verbal), deemed or opt-out.

When deciding on the type of consent, consider what is reasonable for the individual, the circumstances, and the sensitivity of the information, and whether you will need to prove that you gained consent.

PIPA regards personal information collected before January 1, 2004 to have been collected with consent but only for the original, limited purpose for collecting it. An individual can change or withdraw consent in some situations, but not if it interferes with a legal obligation.

### **Rules for collecting personal information**

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Collect personal information only for reasonable purposes, and only the amount and type reasonably needed to carry out the purposes for collecting it. You need to give notice about why you are collecting before, or at the time, you collect the information. Collect directly from the individual, unless he or she agrees to someone else giving the information to you. In some instances, PIPA allows collection without consent.

## **Rules for using and disclosing personal information**

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Use and disclose information only for reasonable purposes. As well, only use or disclose the amount and type of information needed to carry out those purposes. The Act permits using and disclosing without consent in limited and specific circumstances.

## **Personal employee information**

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In the Act, the term employee includes a partner, or a director, officer or other office-holder of the organization, an apprentice, volunteer, participant or student, or an individual who performs a service for the organization under a contract or an agency relationship. You may collect, use and disclose personal employee information without consent if the individual is an employee or former employee, or if you are recruiting an employee.

The collecting, using and disclosing of personal information must be reasonable for the purpose and limited to the employment or post-employment relationship. Notice must be given to current employees about the purpose for collecting their personal information.

## **Business transactions and personal information**

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When buying or selling a business, you may collect, use and disclose information without consent when those involved agree to do so only for the transaction and when they need the information to decide whether to buy or sell.

Once you complete the transaction, the organization receiving the personal information may continue to use and disclose it. But the information can only be used and disclosed for the purposes it was collected. Further, the information must relate solely to the carrying on of the business.

If the transaction does not proceed, the organization that received the personal information must destroy or return it.

## **Requests to obtain one's own personal information**

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Individuals have a right to ask for access to their own personal information, to know how their information is or has been used, and to whom and under what situations the information is or has been disclosed. Organizations may charge a reasonable fee for access, except that no fee can be charged for a request for personal employee information.

In some cases, the Act authorizes another person to act on behalf of the individual when exercising their rights, for example, a parent on behalf of a young child.

Your organization has a duty to help individuals with their requests, to explain abbreviations or terms, and usually to respond to requests within 45 days.

In some circumstances, organizations can or must refuse access such as when disclosure would harm someone, an investigation, or legal proceeding or when access would disclose the personal information of someone else or of confidential business information.

If an individual is not satisfied with the records, he or she may ask the Alberta Information and Privacy Commissioner to review the matter.

## **Correcting personal information**

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Individuals have a right to ask an organization to correct their information if their records contain errors or omissions.

You must correct any error or omission and, if reasonable, inform other organizations to which you disclosed the incorrect information. You cannot, however, correct a professional opinion.

If you decide that no error or omission exists, you must document that you received a request but did not make a correction.

An individual who is dissatisfied with the handling of the request for correction can ask the Alberta Information and Privacy Commissioner to review the matter.

## **Accuracy, protection and retention of personal information**

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Take reasonable steps to ensure information is accurate, complete to the extent necessary, and not misleading.

Use reasonable safeguards to protect personal information from theft, modification, unauthorized access, collection, use, disclosure and destruction. Safeguards should be appropriate to the sensitivity of the information.

Only keep information for as long as reasonable to carry out business or legal purposes.

Destroy or anonymize records containing the information once the information is no longer needed. Use care in disposing of, or destroying, information.

## **Breach Notification**

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You must notify the Alberta Information and Privacy Commissioner if an incident occurs involving loss of or unauthorized access to or disclosure of personal information that may pose a real risk of significant harm to individuals.

## **Information Practices**

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Implement written policies and procedures to protect personal information. Make these policies and procedures available to customers, clients and employees upon request. Add these notices to forms and websites as necessary. Make sure your paper and online versions of the forms and notices are kept current and say the same thing.

## **Non-profit organizations and personal information**

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A non-profit organization includes an organization incorporated under the *Societies Act*, the *Agricultural Societies Act* or registered under Part 9 of the *Companies Act*.

For non-profit organizations, the Act applies only to commercial activities involving the handling of personal information, including the sale of donor or membership lists. It does not apply to personal employee information.

## **Professional regulatory organizations**

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Self-governing professional associations may develop their own a personal information code instead of using sections 1-35 of the Act. The code must be consistent with the purpose and intent of PIPA.

Individuals still have a right of access to their personal information and may still complain to the Alberta Information and Privacy Commissioner if an association refuses access to information or to make a breach of privacy complaint.

## **Oversight**

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Individuals may complain to the Alberta Information and Privacy Commissioner if their information has not been properly collected, used or disclosed, or if a request for access or correction has not been handled properly.

The Office can investigate complaints or initiate an investigation, give advice, hold an inquiry, or issue a public binding Order to the organization. Organizations have 50 days to comply with an Order.

The penalties for an offense under the Act are fines up to \$10,000 for an individual, and up to \$100,000 for an organization.

Individuals may sue if you do not comply with PIPA or its regulations.

Organizations are protected from liability when administering the Act in good faith.