

Understanding MFIPPA and Your Legal Obligations

Freedom of Information for Ontario School Boards

Justin Petrillo

President and Founder, FOI Assist Corporation



Freedom of Information for Ontario's School Boards

May 14, 2026

OASBO Seminar Description

- Date: 2026-05-14
- Time: 1:10 PM to 2:10 PM
- Session Title: Freedom of Information (FOI) for School Boards
- Room Location: Sheraton Fallsview, 5th Floor, Strategy 3
- Speaker Name(s): Justin Petrillo

OASBO Seminar Description

- This session will provide a clear and accessible introduction to Freedom of Information (FOI) as it applies to Ontario's school boards. Under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), every school board in the province is legally required to respond to FOI requests — and to do so within prescribed timelines and rules.
- The presentation will explain what an FOI request is, how the legislation works, and which parts of the legislation are most relevant in the school board environment. Whether attendees personally process FOI requests or are simply curious about their board's obligations — including how FOI can be used by the media, political parties, parents, students, and members of the public to compel the disclosure of records — this session will equip them with the essentials.
- Participants will gain the foundational understanding needed to recognize FOI obligations, support compliance, and appreciate how access-to-information requests can affect day-to-day operations within school boards.

Today's Agenda

- What is Freedom of Information?
- Ontario's FOI Legislation
- Exemptions and Exclusions
- Processing an FOI Request
- The Role of FOI vs. Regular Disclosure
- Budget Bill (Bill 97) Updates to FOI

What is Freedom of Information?

What is Freedom of Information?

- **Freedom of Information laws** give the public a legal right to request records from government institutions, **including school boards.**
- Also known as:
 - FOI
 - ATI (Access to Information)
 - ATIP (Access to Information and Privacy)
 - “Right of Access” / “Right to Information”
 - Open Records / Transparency Law / Public Access Law

FOI Requests School Boards Might Receive

- Student records
- Bullying/investigation records
- Board and trustee expenses and expense claims
- Procurement/contract information
- Emails between staff
- New school, school closure and boundary discussions
- CCTV footage
- Labour and Human Resources records

Real example #1

- MO-3392: Toronto District School Board

... there have been a series of articles in the [identified newspaper] that contained two documents in reference to my role as an employee at [the board]

...

Therefore, I would request ... all email and [text] communications between [two named Trustees] and either of [named individual] and/or [named individual]. And in addition, I would make the same request for all email and [text] for [two named Trustees] and [named individual].

And I would ask for any phone records that indicate text or phone communication between any of the above persons regarding the documents or commentary on the documents.

Real example #2

- MO-4667: Toronto District School Board
 - In 2021, the Integrity Commissioner of the Toronto District School Board (the board or TDSB) issued a final report in relation to two complaints regarding allegations about a trustee's conduct. The complaints alleged that the trustee's posting on Twitter contravened the board's code of conduct.
 - A community organization then submitted the following FOI request:
 - ***“Any and all records relating to the TDSB investigation into emails sent by TDSB employee [name of employee] on [two specified dates.]”***
 - The Board located 1462 pages of responsive records.
 - On appeal, the IPC upheld the Board's decision not to disclose the records as they were about “labour relations or employment related matters”.

Real example #3

- ORDER M-1150: Dufferin-Peel Catholic District School Board
 - **The Board received a request for access to records relating to the award of contracts for the construction of a number of schools by the Board.**
 - **The requester then amended his request to include only “the point score sheets for each of the invited and non-invited tenderers” and the “lists with all firms responding to the invitation for pre-qualification”.**
 - The Board located 326 pages of records, consisting of 304 pages of pre-qualification information on tenderers for 17 school construction projects (Records A to Q) and 22 pages consisting of lists of contractors who did, and did not, pre-qualify (Record R). The Board denied access to all of the records, in their entirety.
 - On appeal, the IPC ordered the board to disclose some of the records.

Why do Freedom of Information Laws exist?

- Citizens have a right to know what their government is doing.
- Government serves the public, therefore, government records should be accessible by default.
- Transparency encourages better decision-making.
 - Officials and public servants know their records may be examined.
 - This promotes accountability, professionalism, and careful record-keeping.
- Transparency leads to confidence in government.

Why do Freedom of Information Laws exist?

With respect to personal information, the FOI laws recognize that individuals should be able to:

- Know what personal information government institutions hold
- Understand how decisions affecting them are made and what personal information is informing government decisions
- Challenge the accuracy of personal information and request corrections

Ontario's FOI Legislation

Ontario's FOI Legislation

- Ontario has two Freedom of Information laws:
 - *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 (“**FIPPA**”)
 - *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (“**MFIPPA**”)
- **FIPPA** applies to provincial institutions, such as ministries, agencies, boards, commissions, colleges, universities and hospitals
- **MFIPPA** applies to municipal institutions including municipalities, police forces, conservation authorities and **school boards**.
 - There is also federal legislation applicable to the **federal government**:
 - *Access to Information Act* (R.S.C., 1985, c. A-1)
 - *Privacy Act* (R.S.C., 1985, c. P-21)
 - And *PIPEDA*, federal privacy legislation applicable to **private businesses**
 - *PIPEDA* takes a different approach: more “consent” based

Ontario's FOI Legislation

- FIPPA came out in 1988, and MFIPPA in 1991.
- MFIPPA can be thought of as “FIPPA, but for Municipal Institutions”.
 - FIPPA and MFIPPA overlap significantly
 - Many sections of FIPPA are repeated almost word-for-word in MFIPPA, just with different section numbers
 - Each describes the same basic Freedom of Information procedure with the same deadlines, differing mainly in what exceptions are available
 - When courts or the Information and Privacy Commissioner of Ontario interpret FIPPA, the same logic often applies to MFIPPA, and vice versa
 - Legislative innovations often arrive in FIPPA first, then MFIPPA later

Municipal Freedom of Information and Protection of Privacy Act

- The name of the legislation itself is suggestive of its dual nature
- The same legislation that sets out a “Freedom of Information” framework, also “Protects Privacy” and prohibits the disclosure of certain information
- The basic rule in both *FIPPA* and *MFIPPA* is that **all records are disclosable to the public upon request** (unless an exception applies)

What is a record?

“Data, in any form, and any record made, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic, optical or any other means”

- This is the new Bill 97 definition of “record”
- There are very few limitations on what a record is:
 - Records/reports that the institution hasn’t yet produced
 - Memories (unlike testifying in court)

Municipal Freedom of Information and Protection of Privacy Act

- A record can include (and therefore be subject to disclosure):
 - Emails, voicemails and text messages
 - Handwritten notes
 - Databases
 - Audio/video recordings
 - Files stored in the cloud
 - Student records
 - Video and audio recordings (e.g., CCTV footage)
 - **Texts and calls on your personal phone?**
 - Depends... Was it used for work?
 - Using a personal device does not legally remove your activity from FOI

Municipal Freedom of Information and Protection of Privacy Act

- However, FIPPA and MFIPPA both list a number of **exemptions** and **exclusions**, which either:
 - Outright prohibit the institution from disclosing certain kinds of information, or
 - Give institutions discretion over whether or not to disclose it

Exemptions and Exclusions

Exemptions and Exclusions

- MFIPPA includes exemptions for the following categories of records:

Exception	Section No.	Exception	Section No.
Draft by-laws and Closed Municipal Meetings	6	Third party information (mandatory)	10
Advice or recommendations	7	Economic and other interests	11
Law enforcement	8	Solicitor-client privilege	12
Civil Remedies Act, 2001	8.1	Danger to safety or health	13
Prohibiting Profiting from Recounting Crimes Act, 2002	8.2	Personal privacy (mandatory)	14
Relations with governments (mandatory)	9	Information soon to be published	15
Relations with Aboriginal communities	9.1	Personal Information (Used for Personal Information requests)	38

Exemptions and Exclusions

- How do FOI professionals know when these exemptions apply to a record?
- In practice, they
 - Carefully read the wording of each exemption in the legislation
 - Read guidance from the Information and Privacy Commissioner of Ontario (IPCO) and other sources
 - Review IPCO appeal decisions and court cases
 - Consult a lawyer for guidance, especially when stakes are high

Exemptions and Exclusions

For school boards, the most relevant exemptions include:

- **MFIPPA s.14, Personal Privacy / Personal Information**

- School boards frequently handle sensitive personal information involving students, parents, and employees.
- Typically, you aren't allowed to disclose personal information without the consent of the person to whom it relates
 - On the other hand, individuals can typically obtain their own personal information via FOI
- Section 32 of MFIPPA also sets out certain situations where disclosure of personal information is permitted
 - For example, law enforcement, health and safety, or where permitted by law

Exemptions and Exclusions

- **MFIPPA s.10, Third party information**

- Information must be a trade secret, scientific, technical, commercial, financial, or labour relations information.
- Information must be supplied by a third party, and supplied in confidence.
- Disclosure could reasonably be expected to cause one of the specified harms.

Exemptions and Exclusions

- **MFIPPA s.7, Advice or Recommendations**

- *“[An institution] may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.”*
 - Not applicable to factual material, a statistical survey, a report by a valuator, an environmental impact statement, product and equipment testing reports, consumer test reports, feasibility studies, technical studies, field research reports

Exemptions and Exclusions

- **Other exemptions** that come up frequently for school boards:
 - MFIPPA s.8, Law Enforcement
 - MFIPPA s.12, Solicitor-Client Privilege
 - MFIPPA s.13, Danger to Safety or Health

Exemptions and Exclusions

- FIPPA and MFIPPA also contain “**exclusions**”
- Rather than “exempt” certain categories of information from FOI disclosure, “exclusions” remove certain kinds of records from the application of FIPPA and MFIPPA completely
- Although legally distinct from each other, “exclusions” and “exemptions” serve a similar function in the FOI process and are often treated interchangeably when responding to an FOI request

Exemptions and Exclusions

- MFIPPA includes “exclusions” for the following types of records:
 - MFIPPA s. 52(2), Private donations to archives
 - MFIPPA s. 52(2.1), Prosecution records
 - MFIPPA s.52(3), Labour relations and employment-related
 - MFIPPA s.52(5),(6), Medical assistance in dying
 - MFIPPA s.52.1, HydroOne

Exemptions and Exclusions

Of the MFIPPA exclusions, “**Labour relations and employment-related**” is the most widely applied by far, and covers things like:

- employee evaluations
- discipline investigations
- grievance discussions
- labour negotiations
- HR consultations
- records of discussions around promotions and raises

Processing an FOI Request

Freedom of Information – The Basic FOI Process

- An FOI request is a **written request** for one or more documents held by a government institution.
 - The request is submitted to the institution with a \$5 application fee.
 - Traditionally, this was done either by letter or by filling out a request form.
 - It is now becoming increasingly common to submit FOI requests and pay the application fee through an online form on the institution's website.
- Public institutions have a legal obligation to disclose any records requested, as long as:
 - the requestor pays the applicable fees
 - there is no exemption or exclusion that applies.

Freedom of Information – The Basic FOI Process

1. Receive request
2. Work with requestor to fix any defects
 - e.g., missing application fee, unclear request
3. Issue fee estimate (if fees expected to be over \$100) and collect deposit
4. Search for records
5. Run affected person process (if applicable)
6. Review records to apply exemptions
 - For each record, decide whether to disclose, partially disclose or withhold it
7. Issue decision letter and collect any applicable FOI fees
8. Issue disclosure to requestor

Freedom of Information – The Basic FOI Process

- Under FIPPA and MFIPPA, institutions have 30 days* to respond to an access request by issuing a decision letter.

** As of July 1, 2026, Bill 97 extends this deadline to 45 business days.*

- The decision letter sets out whether the institution will disclose, withhold, or partially withhold the requested records.
- The decision letter typically includes:
 - a list of records located that are responsive to the request
 - a statement of fees owing for activities such as:
 - searching for records
 - preparing them for disclosure
 - printing and photocopying

Freedom of Information – The Basic FOI Process

- There's a lot for the institution to do in this time:
 - Determine the validity of the request, and whether it should be transferred or processed by the receiving institution
 - Assign the search to the appropriate staff
 - Review the documents for relevance
 - Withhold and redact information covered by exemptions (some mandatory, some discretionary)
 - Obtain internal approvals as necessary
 - Prepare the decision letter and the documents to be disclosed

Freedom of Information – The Basic FOI Process

- FOI fees are prescribed by regulation:

Application fee	\$5.00	
Searching for Records	\$7.50 per 15 minutes	(general records only)
Preparing/Redacting Records	\$7.50 per 15 minutes	(general records only)
Photocopying/Printing	20 cents per page	
Digital Media	\$10.00 per USB stick or CD	
Computer Programming	\$15.00 per 15 minutes	
Other Costs	As invoiced	(e.g., retrieving records from offsite storage)

Freedom of Information – The Basic FOI Process

- Delays caused by the requestor do not count towards the deadline
- Typical reasons the “deadline clock” can stop include:
 - Invalid requests
 - Application Fee Missing
 - Request Not Clear (insufficient detail to identify responsive documents)
 - Request Not Made In Writing or Not Legible
 - Request Not Clearly Made under FIPPA/MFIPPA (can't tell if it's an FOI request)
 - Awaiting payments from the requestor
 - Awaiting information from the requestor
- The institution must help the requestor formulate a valid request and advise them about any missing fee payments

Freedom of Information – The Basic FOI Process

- Various steps in the process affect the decision letter deadline
- Time Extensions
 - Can be issued when there is a large volume of records to be searched or reviewed.
 - **New in Bill 97:** Second time extensions in certain circumstances
- Interim Fee Estimates
 - Can ask for a 50% deposit if expected fees are over \$100
 - Clock stops until fees are paid
- The Affected Person Process
- **New in Bill 97:** Staged Access Plans

Freedom of Information – Sample Request Letter

Justin Petrillo
1 Anytown Lane
Pleasanton, Ontario
L1V 1V1

December 3, 2025

Information and Privacy Office
York University
1050 Kaneff Tower
4700 Keele Street
Toronto, ON M3J 1P3

To Whom It May Concern:

RE: Freedom of Information Request

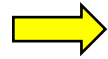
Please provide me with records showing the total amount the university spent on temporary and permanent fencing in 2024.

Warm regards,

Justin Petrillo
Cell: 437-345-1500

Enclosure: \$5.00 cheque

Freedom of Information – Sample Request Letter



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Freedom of Information – Sample Request Form

Please Note: a \$5.00 application fee is required to process all requests (cheque or money order, payable to YORK UNIVERSITY).

First, read the **FIPPA Access Request Procedure** at <http://ipo.info.yorku.ca/files/2012/10/FIPPA-Access-Request-Procedure.pdf> on the Information and Privacy Office website. Complete this form by filling in the fields below, then print.

Request for (check one only):		Name of York University office to which you are making your request:	
<input checked="" type="checkbox"/> Access to General Records	<input type="checkbox"/> Access to own Personal Information	<input type="checkbox"/> Information and Privacy Office	<input type="checkbox"/> Other, please specify:
<input type="checkbox"/> Correction of own Personal Information			
Last name: Petrillo			
First name: Justin		Middle name: R	
Street address, apartment: 1 Anytown Lane			
City, town: Pleasanton		Province: ON	Postal code: L1S 1V1
Email (optional): justin@foiassist.ca		Tel. no. (day): 437-345-1500	Tel. no. (evening):
If request is for access to, or correction of, own personal information records:			
Last name appearing on records <input type="checkbox"/> same as above, or (specify):			
Please give a detailed description of requested records, personal information or personal information to be corrected.			
Please provide me with records showing the total amount the university spent on temporary and permanent fencing in 2024.			

NOTE 1: if you are requesting access to or correction of your own personal information, please identify the personal information bank or record containing the personal information, if known. **NOTE 2:** if you are requesting a correction of personal information, please state the desired correction and, if appropriate, attach any supporting documentation. You will be notified if the correction is not made and you may require that a statement of disagreement be attached to your personal information.

Preferred method of access to records:	<input type="checkbox"/> examine original <input type="checkbox"/> receive copy	Signature:	Date: Dec 3, 2025
--	---	------------	-------------------

FOR YORK UNIVERSITY USE ONLY	
Received by Office:	
Date Received:	Request Number:
Comments:	

NOTE: Pursuant to *Freedom of Information and Protection of Privacy Act*, fees will be charged for activities which are required to process your request. Some examples are:

- > a search charge for every 15 minutes of manual search required to locate a record
- > costs incurred in locating, retrieving, processing or copying a record, or in preparing the record for disclosure
- > postage and shipping costs where applicable

See FIPPA Fees at <http://ipo.info.yorku.ca/files/2012/10/FIPPA-Fees.pdf> on the IPO website for specific charges which may apply.

For more information, please go to: http://www.e-laws.gov.on.ca/html/reg/eng/ela/regs_900460_e.htm.

Print and sign the form, then mail it to:
 Information and Privacy Office
 York University
 1050 Kaneff Tower
 4700 Keele Street, Toronto, ON, M3J 1P3

Privacy: Personal information in connection with this form is collected under the authority of *The York University Act, 1965* and will be used for the purpose of responding to your request. If you have any questions about the collection, use and disclosure of personal information by York University, please contact: Information and Privacy Coordinator, York University, 1050 Kaneff Tower, 4700 Keele Street, Toronto, ON, M3J 1P3, tel. 416-736-2100 ext. 40706 or email info.privacy@yorku.ca.

Freedom of Information – The Basic FOI Process

- Once all responsive records are found, any fee deposits are paid, and any affected persons have been consulted, the institution issues a decision letter to the requestor to let them know which documents are being disclosed, partially disclosed or withheld
- Preparing a proper decision letter in Ontario involves several formal requirements:
 - citing the applicable exemptions
 - justifying any fees being charged
 - giving reasons for any denials
 - advising the requestor of their right to appeal

Freedom of Information – Sample Decision Letter (Part 1)



HOGWARTS SCHOOL OF WITCHCRAFT AND WIZARDRY
1 Serpentine Lane
London, Ontario N6H 5G5

Tel. 519-555-6676
Fax. 519-555-6687

Tuesday, November 11, 2025

Mary MacLemore
111 Franklin Blvd
Windsor, Ontario
N8W 3T6

Dear Miss MacLemore:

Re: Decision Letter (FOI File Number: 2025-04)

I am writing regarding your access request made under the *Freedom of Information and Protection of Privacy Act* (hereinafter, the "Act") received by our office on Monday, July 14, 2025.

Your request is for the following information:

I am looking for any records which show purchases of plastic partitions by your institution in 2020, 2021 or 2022.

A search has been conducted and the responsive records have been reviewed. A decision has been made to grant access in part. Information on 2 pages of records will be partially withheld (severed). 3 pages will be withheld in full. Records (and/or portions thereof) have been withheld pursuant to the following section(s) of the Act:

- s.19 (Solicitor-client privilege)
- s.20 (Danger to safety or health)

The disclosure exemptions and/or exclusions cited in this decision are set out below for your information.

The Act contemplates a user-pay principle. The fee for processing your request is \$77.00.

This fee is broken down as follows:

- Search: 1.5 hours at \$30 per hour = \$45.00
- Preparation: 0.5 hours at \$30 per hour = \$15.00
- Printing/Copying: 35 pages at \$0.20 per copy = \$7.00
- Shipping Costs: \$10.00
- Total Fees: \$77.00
- **Payment Due Now: \$77.00**

"Draco Dormiens Nunquam Titillandus"

The Act provides that all or part of the fee can be waived if, in our opinion, it is fair and equitable to do so, in certain circumstances. Below please find excerpts of section 57 of the Act and section 8 of Regulation 460. Please notify us as soon as possible if you wish to proceed with a request for a fee waiver. You may be required to provide evidence in support of any fee waiver request.

The records will be prepared and made available to you after receipt of the outstanding balance of \$77.00. Please note, if we do not receive your fee payment within 30 days of the date on this letter, we will consider your request abandoned and close the file.

An index of the responsive records and relevant disclosure decisions has been included with this letter.

The person responsible for making this access decision on your request is Ablus Dumbledore, Headmaster.

You may request the Information and Privacy Commissioner to review this decision within thirty days from the date of this letter. You can do so by filing an appeal online at www.ipc.on.ca. The appeal fee is **\$25.00** (for general record requests) or **\$10.00** (for personal information requests). Alternatively, appeals can still be mailed with a cheque or money order payable to "Minister of Finance" to: Registrar, Information and Privacy Commissioner of Ontario, 2 Bloor Street East, Suite 1400, Toronto, ON, M4W 1A8.

If you decide to request a review of this decision, please provide the Commissioner's office with the following:

- The file number listed at the beginning of this letter.
- A copy of this decision letter.
- A copy of your request that you sent to this institution.

Should you have any questions, please contact me by phone at 905-555-5555 or by email at justin@foiassist.ca.

We would appreciate you using the above-listed FOI file number in any further correspondence.

Sincerely,

Justin Petrillo
FOI Coordinator
Hogwarts School of Witchcraft and Wizardry

Encl.

"Draco Dormiens Nunquam Titillandus"

INDEX OF RECORDS

Doc #s	# pages	Title/Description	Date / Date Range	Decision	Exemptions	Comments/Reasons
1-10	22	Emails regarding plastic partitions	Jan 1, 2020 to Dec 31, 2020	Disclose		
11-15	33	Memos regarding plastic partitions	Oct 2020	Partially Disclose	s.19, s.20	Information contains legal advice and information that may pose a danger if disclosed

"Draco Dormiens Nunquam Titillandus"

Freedom of Information – Sample Decision Letter (Part 2)

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31

EXEMPTIONS

Solicitor-client privilege

19 A head may refuse to disclose a record,

- (a) that is subject to solicitor-client privilege;
- (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation; or
- (c) that was prepared by or for counsel employed or retained by an educational institution or a hospital for use in giving legal advice or in contemplation of or for use in litigation.

Danger to safety or health

20 A head may refuse to disclose a record where the disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

Fees

57 (1) A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

(2) Repealed.

Estimate of costs

(3) The head of an institution shall, before giving access to a record, give the person requesting access a reasonable estimate of any amount that will be required to be paid under this Act that is over \$25.

Waiver of payment

(4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,

"Draco Dormiens Nunquam Titillandus"

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed in the regulations.

Review

(5) A person who is required to pay a fee under subsection (1) may ask the Commissioner to review the amount of the fee or the head's decision not to waive the fee.

Disposition of fees

(6) The fees provided in this section shall be paid and distributed in the manner and at the times prescribed in the regulations.

**Freedom of Information and Protection of Privacy Act, R.R.O. 1990, REGULATION 460:
GENERAL**

8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:

1. Whether the person requesting access to the record is given access to it.
2. If the amount of a payment would be \$5 or less, whether the amount of the payment is too small to justify requiring payment.

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Freedom of Information – The Basic FOI Process

- The decision letter lets the requestor know what records he or she can expect to receive
- Typically, the decision letter demands the requestor pay any applicable fees before the records are disclosed
- Once the fees are paid, the requested records are sent to the requestor, subject to any withholdings
 - If the disclosure of the records may affect the rights of third parties, a temporary hold is placed on the disclosure to preserve the rights of those third parties, who may launch an appeal to prevent the requestor from obtaining the relevant records.

Freedom of Information – The Basic FOI Process

- Every decision the institution makes in the FOI process can be appealed to the **Information and Privacy Commissioner of Ontario**
- This includes the decision to:
 - Issue a time extension
 - Issue an interim fee estimate
 - Withhold or produce any record
 - Charge (or refuse to waive) any FOI fees (e.g., search fees, prep fees)
- The requestor's appeal fee is quite reasonable
 - \$25.00 for general records requests
 - \$10.00 for personal information requests

How You May Be Involved

- Even if you are not personally responsible for responding to FOI requests, you may still become involved in the process.
- You may be asked:
 - to help understand a records request
 - to search for responsive records
 - to provide advice on the application of exemptions
 - to identify affected third parties
 - to submit affected party representations
 - to participate in an appeal

The Role of FOI vs. Regular Disclosure

FOI is “Litigious”

- The FOI process can feel a lot like litigation.
- For example:
 - institutions must issue formal decisions within specified timelines
 - exemptions must be justified
 - requestors participate in the process and must respond within certain deadlines
 - decisions can be appealed
 - an independent oversight body reviews decisions
 - In Ontario, appeals are handled by the **Information and Privacy Commissioner of Ontario**.

FOI Should Not Be the Main Information Channel

- Freedom of Information is not intended to be the primary way institutions provide information to the public.
- Information is typically shared through:
 - Websites
 - Reports
 - Public meetings
 - Personal interactions (e.g., teacher-student or parent-teacher)
 - Routine administrative requests
- FOI exists alongside these “everyday” processes.

Institutions Can Disclose Information Without FOI

- **Any records that are permitted to be disclosed under MFIPPA may be disclosed outside of the FOI process**
- In other words, if an institution is comfortable releasing information, it can usually do so:
 - Informally
 - Quickly
 - Without using the FOI process

Institutions Can Disclose Information Without FOI

- That said, when it's not clear how to respond to a particular request for information, school boards often encourage requestors to use the FOI process
 - FOI/Privacy staff are considered the internal specialists in determining what information can be disclosed.
 - Centralizing requests through these experts helps ensure that disclosure decisions are made consistently and in compliance with MFIPPA.

FOI as a “Back-Up” Process

- FOI can be thought of as a formal legal back-up process.
- If a requester is not satisfied with:
 - the information provided
 - the process used by the institution
 - delays or refusals
- they can submit a formal FOI request.
- This ensures the request is handled under clear legal rules and timelines.
- FOI is most useful when there is uncertainty or disagreement about the disclosure of information.

FOI as a “Safety Valve”

- Because of this structure, FOI can be understood as a “safety valve” (similar to litigation).
- It is a good fit for situations where:
 - normal information channels do not resolve a request
 - unusual or one-off records are requested
 - a requester wants a legally enforceable process
- The FOI system ensures that there is ultimately some way of obtaining any record that the institution is legally permitted to disclose

FOI as a Safeguard

- In that sense, FOI acts as a safeguard. Most information flows through ordinary administrative processes, but if those processes fail to resolve a request, the FOI system ensures there is a formal mechanism for addressing it.
- Just as we don't resolve every dispute by going to court, requestors don't need to use the FOI process for every request for records.
- But just knowing that the FOI process exists — and that it can ultimately be invoked — helps set the tone for how institutions approach transparency and accountability.

Budget Bill (Bill 97) Updates to FOI

Bill 97 Legislative History

- **March 13, 2026: Changes Announced**
 - Stephen Crawford, Minister of Public and Business Service Delivery and Procurement announced proposed legislative updates to Ontario's Freedom of Information (FOI) laws.
- **March 26, 2026: First Reading**
 - The proposed FOI changes were incorporated into **Bill 97, *Plan to Protect Ontario Act (Budget Measures), 2026***—a budget implementation bill—rather than being introduced as stand-alone legislation
- **March 30, 2026: Second Reading.**
 - **April 2, 2026: Bill 97 passed Second Reading** and was referred to the **Standing Committee on Finance and Economic Affairs**
- **April 21, 2026: Third Reading**
 - **April 21, 2026: The government moved to discharge Bill 97** from the Standing Committee on Finance and Economic Affairs, and the Bill was ordered for Third Reading.
 - **April 23, 2026: Bill 97 Passed Third Reading**
- **April 24, 2026: Royal Assent**

Bill 97 Updates to the FOI Process

- Longer Response Timelines
- Second Time Extensions
- Staged Access Plans
- Also:
 - Mandatory PIAs and Content Requirements
 - Mandatory Breach Reporting
 - Whistleblowing

Longer Response Timelines

- As of **July 1, 2026**, there will be a general shift from counting time in “days” to using “business days”
- For the purposes of the Acts, a “business day” is any day that is **not a Saturday or a holiday**.
- “Holiday” means the following days (from the *Legislation Act, 2006*):
 - **Sunday**, New Year’s Day, **Family Day**, Good Friday, **Easter Monday**, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, **Remembrance Day**, Christmas Day, Boxing Day, and **any day fixed as a holiday by proclamation** (e.g., days of mourning).
- Not a “holiday”:
 - **Civic Holiday, National Indigenous Peoples Day** and the **National Day for Truth and Reconciliation**
 - If an institution is closed on one of those days, the day still counts as a business day under the Act.
 - Institutions may need to meet the deadline beforehand.

Longer Response Timelines

Type of Deadline	Old Deadline	New Deadline
Issue Disclosure Decision (and Disclose Records) <i>(FIPPA s.26(1); MFIPPA s.19(1))</i>	30 days	45 business days (more than twice as long)
Transfer or Forward Request (and Notify Requestor) <i>(FIPPA s.25(1); MFIPPA s.18(1))</i>	15 days	15 business days
Affected Person Notice <i>(FIPPA s.28(3); MFIPPA s.21(3))</i>	30 days	30 business days (likely a mistake in Bill 97?)
Affected Person Response Deadline <i>(FIPPA s.28(5); MFIPPA s.21(5))</i>	20 days (after affected person notice)	20 business days (after affected person notice)
Period to Consider Affected Person Representations <i>(FIPPA s.28(4),(7); MFIPPA s.21(4),(7))</i>	10 days (after response deadline above)	10 business days (after response deadline above)
Appeal Period (and Records Hold Period) <i>(FIPPA s.28(8), s.50(2); MFIPPA s.21(8), s.39(2))</i>	30 days (after decision)	30 business days (after decision)
Deem Abandoned (No mention in the Acts, except for Staged Access Plans)	30 days (general) 365 days (personal) (Per IPCO guidance)	Presumably 30 business days (general) and perhaps 1 year (personal) ?

Longer Response Timelines

- The new deadlines all come into effect as of **July 1, 2026**
- The old deadlines will temporarily remain in effect for:
 - **Transferring or forwarding** requests received before this date
 - **Issuing disclosure decisions** for requests received before this date
 - **Disclosing requested records** for requests received before this date
 - **Affected Person Process deadlines** for requests received before this date
 - **The Appeal Period** for notices of decisions given before this date
 - Which means requests received in June may straddle both systems.
- Bill 97 does not establish a general rule for deeming requests abandoned.

Second Time Extensions

- As of **July 1, 2026**, institutions will be able to issue a **second time extension** in certain cases
 - Previously, the legislation didn't expressly prohibit additional time extensions. The practice of only issuing one time extension was established by the Information and Privacy Commissioner of Ontario through guidance.
- The reasons available to issue a **second time extension** are more limited:
 - consent of the requestor to the extension,
 - number of responsive records is significantly more than initially identified, **or**
 - one of the following circumstances arises, provided that it was not reasonably foreseeable when the time limit was initially extended:
 - Knowledgeable employees are unable to assist with responding
 - Additional consultations become necessary to respond to the request

Staged Access Plans

- As of **July 1, 2026**, institutions will be able to issue a **plan for staged access to records**
 - Intended for larger, more complicated requests
- A staged access plan divides the request into separate categories of records and establishes a schedule for the disclosure of each
- The requestor is required to respond to a proposed staged access plan within 30 business days, either to:
 - accept the plan
 - propose an amended plan
 - appeal the plan

Other Important Bill 97 Changes

- **Mandatory Privacy Impact Assessments** for MFIPPA institutions
 - *“before collecting personal information, the head of an institution shall ensure that a written assessment is prepared that contains the following information respecting any personal information that the institution intends to collect”*
 - Legislated **content requirements** have also been introduced
- **Mandatory Breach Reporting**
 - **MFIPPA, 30.1 (1)** *The head of an institution shall report to the Commissioner any theft, loss or unauthorized use or disclosure of personal information in the custody or under the control of the institution if it is reasonable in the circumstances to believe that there is real risk that a significant harm to an individual would result or if any other prescribed circumstances exist.*
- **Whistleblowing protections**
 - **MFIPPA, 45.1 (1)** Any person who has reasonable grounds to believe that an institution has contravened or is about to contravene this Act or the regulations may notify the Commissioner of the particulars of the matter and may request that their identity be kept confidential with respect to the notification.
- **The changes directly above all come into effect January 1, 2027**

Key Takeaways and Practical Tips

Key Takeaways

- Ontario school boards are legally required to respond to FOI requests under *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”)
- FOI requests can involve almost any type of record, including emails, texts, notes, CCTV footage, and student-related records
- Not all records must be disclosed — exemptions and exclusions protect privacy, labour relations, legal privilege, and other sensitive information
- FOI timelines and procedures are strict and legally enforceable
- Even staff who do not process FOI requests directly may still be asked to assist with searches, explanations, or consultations
- Informal disclosure and good record-keeping practices can often help avoid disputes and formal FOI requests
- Major changes introduced by Bill 97 will significantly affect FOI timelines and privacy obligations as of July 1, 2026 and January 1, 2027

Practical Tips for School Board Staff

- Remember that FOI and privacy obligations apply across the organization
- Assume work-related records may someday be reviewed or disclosed
- Be mindful when using email, Teams chat, text messaging, and personal devices for work matters
- Keep records organized and searchable
- Respond promptly when FOI / Privacy staff request assistance
- If you are unsure whether information can be disclosed, seek guidance

Next Steps

Visit foiassist.ca/oasbo for:

- A copy of **today's presentation slides**
- The **seminar quiz** and a **certificate of completion**
- The **FOI Assist Knowledge Base:**
 - Future seminar announcements
 - FOI updates
 - Practical resources for Ontario FOI professionals

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Thank you for attending!

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