

**APPENDIX 1  
GLOSSARY OF  
TERMS**

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This appendix contains a glossary of terms defined in or commonly used in administering *The Freedom of Information and Protection of Privacy Act*. Terms defined in FIPPA are marked with an asterisk (\*).

<b>access</b>	Access means the ability of a person to view or copy a record. FIPPA provides any person with a right of access to a record, including a record containing his or her own personal information, that is in the custody or under the control of a public body.
<b>access and privacy coordinator</b>	<p>The <i>Access and Privacy Regulation</i> under FIPPA requires every public body to appoint an employee as an access and privacy coordinator. The access and privacy coordinator is responsible for:</p> <ul style="list-style-type: none"><li>• reviewing applications for access to records under Part 2 of FIPPA; and</li><li>• the day-to-day administration of the access to information and protection of privacy requirements of FIPPA.</li></ul> <p>The Coordinator's role is discussed in Chapter 3 of this Manual.</p>
<b>The Access and Privacy Regulation</b>	<p>The regulation made under FIPPA that deals with matters such as applications for access, fees, forms, etc. The access and privacy regulation can be found at: <a href="http://web2.gov.mb.ca/laws/regs/pdf/f175-064.98.pdf">http://web2.gov.mb.ca/laws/regs/pdf/f175-064.98.pdf</a></p>
<b>access and privacy officer</b>	<p>The <i>Access and Privacy Regulation</i> under FIPPA states that an access and privacy officer is any employee of a public body to whom the head of the public body has formally delegated a power or duty under section 81 of FIPPA. The Officer's role is discussed in Chapter 3 of this Manual.</p>

**adjudicator\*** The Information and Privacy Adjudicator, appointed under section 58.1(1) of FIPPA. The Adjudicator is an officer of the Legislative Assembly and is independent of government. Where a public body has not acted on the recommendations of the Ombudsman in an access or privacy complaint, the Ombudsman may refer the matter to the Adjudicator for review. The Adjudicator has the power to make an order against a public body that has not acted on the Ombudsman's recommendations. Also see "**review**".

Discussed in Chapter 8 of this Manual.

**applicant\*** Any person who makes a request for access to a record under Part 2 of FIPPA – Access to Information.

**audit** A financial or other formal and systematic examination or review of a program, portion of a program or activity.

**Cabinet\*** The commonly used name for the Executive Council appointed under Manitoba's *Executive Government Organization Act*. It consists of a committee of Ministers of the Government that acts collectively with the Premier to decide matters of government policy. In FIPPA, "Cabinet" is defined to include a committee of the Executive Council (for example, Treasury Board).

**collect** For the purposes of FIPPA, to collect information means to acquire, receive, obtain, gather, bring together or accumulate and create, by any means, a record of information.

Discussed in Chapter 6 of this Manual.

**complaint\*** A complaint under FIPPA can be about access to information under Part 2 of FIPPA or about protection of privacy under Part 3 of FIPPA; The Ombudsman may make his or her own complaint about access or privacy under FIPPA.

Discussed in Chapter 8 of this Manual.

**control** For a record to fall under FIPPA, it must be "in the custody or under the control of" a public body. Usually, "control" of a record means the power or authority to make decisions about the record – to manage the record, including restricting, regulating and administering its use, disclosure or disposition.

Discussed in Chapter 2 of this Manual.

<b>court*</b>	The Manitoba Court of Queen’s Bench.
<b>custody</b>	<p>For a record to fall under FIPPA, it must be “in the custody or under this control of” a public body. Usually, “custody” means having physical possession of a record.</p> <p>Discussed in Chapter 2 of this Manual.</p>
<b>delegation</b>	<p>The formal process, referred to in section 81 of FIPPA, whereby the head of a public body authorizes an employee or officer within the public body or some other person to perform certain duties or to exercise certain powers or functions of the head under FIPPA. A delegation under FIPPA should be in writing.</p> <p>Discussed in Chapter 3 of this Manual.</p>
<b>department*</b>	<p>A department, branch or office of the Executive Government of the Province of Manitoba. A “department” is a public body that falls under FIPPA.</p> <p>This definition is discussed in Chapter 2 of this Manual.</p>
<b>disclose or disclosure</b>	<p>For the purposes of Part 3 of FIPPA – Protection of Privacy – a public body discloses information means to make the information known to, or reveal, expose, show, provide, or sell the information to, or share the information with, any person or entity outside the public body (who is not acting on behalf of the public body), by any means.</p> <p>“Disclose” can also sometimes be used to mean to provide access to records or personal information.</p>
<b>direct collection</b>	Means collection of personal information directly from the individual it is about.
<b>discretion</b>	<p>The power to make a decision, usually identified by the use of the term “may”. For example:</p> <ul style="list-style-type: none"><li>• “the head of the public body may refuse to disclose...”</li><li>• a public body may disclose personal information only...”.</li></ul> <p>Discretion is the power of a decision-maker to choose a particular course of action for good reasons and in good faith, after considering the relevant facts and circumstances; the applicable law, including the objects of FIPPA; and the proper application of the law to the relevant facts and circumstances.</p>

Exercising a discretion is discussed in Chapter 5 of this Manual.

**discretionary exception** In the context of Part 2 of FIPPA – Access to Information – an exception to access that permits a public body to make a decision whether or not to withhold all or part of a record. Discretionary exceptions begin with the phrase “the head of a public body may refuse to disclose.” A discretionary exception to access involves a two-step process:

- the head of the public body must first determine whether or not some or all of the information in the requested record falls within the discretionary exception; and
- then must determine whether or not to disclose the information, even though the exception could be relied on as a basis for refusing access – that is, the head must 'exercise' his or her discretion.

See also “**discretion**” and “**mandatory exception**”. Discussed in Chapter 5 of this Manual.

**educational body\*** A local public body that is

- (a) a school division or school district established under *The Public Schools Act*,
- (b) The University of Manitoba,
- (c.1) The University of Winnipeg,
- (c.2) University College of the North,
- (c.3) Le Collège universitaire de Saint-Boniface,
- (c.4) St. Paul’s College,
- (c.5) St. John’s College,
- (d) a college established under *The Colleges Act*, and
- (e) any other body designated as an educational body in the regulations.

Also see “**local public body**”. This definition is discussed in Chapter 2 of this Manual.

**employee\*** Includes, in relation to a public body, a person who performs a service for the public body under a contract or agency relationship with the public body.

<b>enactment*</b>	An Act or a regulation. An Act is a statute passed by the Legislative Assembly of a province or by the Parliament of Canada. A regulation is a law made under the authority of a statute by the Lieutenant Governor in Council (in the case of a province), the Governor General in Council (in the case of Canada), a minister, etc.
<b>exceptions to access</b>	<p>The exceptions to access (or disclosure) are provisions in Part 2 of FIPPA – Access to Information – that either require or permit a public body to withhold all or part of a record in the custody or under the control of the public body. The right of access under FIPPA is subject to limited and specific exceptions where disclosure would reveal certain categories of information or would result in harm to individuals, the public body or a third party. These exceptions to access are either mandatory or discretionary, and are set out in sections 17 to 32 of FIPPA.</p> <p>Discussed in Chapter 5 of this Manual.</p>
<b>extension of time</b>	<p>In the context of an access request under Part 2 of FIPPA – Access to Information – the lengthening of the 30-day time limit for responding to the request.</p> <p>Discussed in Chapter 4 of this Manual.</p>
<b>fees</b>	The charges that an applicant pays to a public body for services related to the processing of an access request under Part 2 of FIPPA – Access to Information. The <i>Access and Privacy Regulation</i> under FIPPA sets out the services for which fees may be charged and the maximum charges for providing these services.
<b>FIPPA</b>	<p>The abbreviation for “<i>The Freedom of Information and Protection of Privacy Act</i>.” FIPPA can be found at <a href="http://web2.gov.mb.ca/laws/statutes/ccsm/f175e.php">http://web2.gov.mb.ca/laws/statutes/ccsm/f175e.php</a>.</p> <p>FIPPA was amended by <i>The Freedom of Information and Protection of Privacy Amendment Act</i>, S.M. 2008 c.40. The amending Act can be found at: <a href="http://web2.gov.mb.ca/laws/statutes/2008/c04008e.php">http://web2.gov.mb.ca/laws/statutes/2008/c04008e.php</a></p>
<b>for</b>	In the phrase “by or for”, “for” means on behalf of someone else. For example, a record “created by or for” a person is a record created by that person or by another person acting on his or her behalf or at his or her request.

**government agency\***

Means

- (a) any board, commission, association, agency, or similar body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors or governing board of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, and
- (b) any other body designated as a government agency in the regulations.

A government agency is a public body that falls under FIPPA.

This definition is discussed in Chapter 2 of this Manual.

**head\***

The head of a public body is the person or group of persons responsible for the administration of FIPPA within the public body. "Head" means

- (a) in the case of a department, the minister who presides over it,
- (b) in the case of an incorporated government agency, its chief executive officer,
- (c) in the case of an unincorporated government agency, the minister who is charged by the Lieutenant Governor in Council with the administration of the Act under which the agency is established or who is otherwise responsible for the agency, and
- (d) in any other case, the person or group of persons designated under section 80 of FIPPA or the regulations under FIPPA as the head of the public body.

This definition is discussed in Chapter 3 of this Manual.

**health care body\***

A local public body that is:

- (a) a hospital designated under *The Health Services Insurance Act*,
- (b) a regional health authority established under *The Regional Health Authorities Act*,
- (c) the board of a health and social services district established under *The District Health and Social Services Act*,
- (d) the board of a hospital district established under *The Health Services Act*, and

- (e) any other body designated as a health care body in the regulations.

*Also see “local public body”.*

This definition is discussed in Chapter 2 of this Manual.

**indirect collection**

Means collecting personal information from a source other than the individual the information is about.

**individual**

A natural person, a human being. In legislation, the term “person” is broader than the term “individual” as it means an individual and also includes a corporation and the heirs, exceptions, administrators or other legal representatives of a person.

*Also see “person”.*

**information manager\***

A person or body that

- (a) possesses, stores or destroys personal information for a public body, or
- (b) provides information management or information technology services to a public body.

This is the same as the definition of “information manager” in *The Personal Health Information Act*.

Discussed in Chapter 6 of this Manual.

**judicial administration record\***

A record containing information relating to a judge, master or justice of the peace, including information relating to

- (a) the scheduling of judges, hearings and trials,
- (b) the content of judicial training programs,
- (c) statistics of judicial activity prepared by or for a judge,
- (d) a judicial directive, and
- (e) any record of the Judicial Inquiry Board, the Judicial Council established under *The Provincial Court Act* or the Masters Judicial Council or a hearing judge under *The Court of Queen's Bench Act*.

Discussed in Chapter 2 of this Manual.

**judicial or quasi-judicial** A person is acting in a judicial or quasi-judicial capacity if he or she is carrying out a function that is judicial, or partly administrative and partly judicial, and he or she is required to:

- investigate facts, hear all the parties to a matter at issue and weigh evidence or draw conclusions as a basis for his or her action;
- exercise discretion of a judicial nature; and
- make a decision after considering the issues, rather than simply making a recommendation.

A person acting in a judicial or quasi-judicial capacity is generally under a duty to act in accordance with the rules of natural justice.

**judicial review** A formal court process that is different from an appeal. For example, when judicially reviewing a decision of the Information and Privacy Adjudicator, the Manitoba Court of Queen’s Bench does not re-visit the facts and decide the matter. Instead, the court decides whether the Adjudicator acted strictly within the powers that have been given to him or her and did his or her job properly.

Discussed in Chapter 8 of this Manual.

**law enforcement** Any action taken for the purpose of enforcing an enactment, including

- (a) policing,
- (b) investigations or inspections that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment, and
- (c) proceedings that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment.

This definition is discussed in Chapter 2 of this Manual.

**legal proceedings** A proceeding before a court, tribunal or other body having authority, by law or by consent, to make decisions concerning a person’s rights. This includes administrative proceedings before a board or tribunal to acquire a right, enforce a remedy or that leads or could lead to a sanction or penalty.

**local government body\*** A local public body that is:

- (a) The City of Winnipeg,
- (b) a municipality,
- (c) a local government district,
- (d) a council of a community under *The Northern Affairs Act*,
- (e) a planning district established under *The Planning Act*,
- (f) a conservation district established under *The Conservation Districts Act*, and
- (g) any other body designated as a local government body in the regulations.

This definition is discussed in Chapter 2 of this Manual.

**local public body\*** A public body that is:

- (a) an educational body,
- (b) a health care body, or
- (c) a local government body.

This definition is discussed in Chapter 2 of this Manual.

**mandatory exception** In the context of Part 2 of the FIPPA – Access to Information – an exception to access that requires a public body to withhold all or part of a record. Mandatory exceptions begin with the phrase “the head of a public body shall refuse to disclose.”

*Also see “discretionary exception”.*

Discussed in Chapter 5 of this Manual.

**minister\*** Means a member of “Cabinet” (the Executive Council of the Government of Manitoba).

**minister responsible for FIPPA** The member of Cabinet (the Executive Council) charged by the Lieutenant Governor in Council with the administration of FIPPA. The Minister responsible for FIPPA is the Minister of Culture, Heritage and Tourism.

*Also see “responsible minister”.*

Discussed in Chapter 2 of this Manual.

**offence** An offence under an enactment of Manitoba or Canada, including an offence under FIPPA.

<b>Officer of the Legislative Assembly*</b>	Means the Speaker of the Legislative Assembly, the Clerk of the Legislative Assembly, the Chief Electoral Officer, the Ombudsman, the Children's Advocate, the Auditor General, the Information and Privacy Adjudicator appointed under FIPPA and the commissioner appointed under <i>The Legislative Assembly and Executive Council Conflict of Interest Act</i> .  Discussed in Chapter 2 of this Manual.
<b>Ombudsman*</b>	The Manitoba Ombudsman appointed under <i>The Ombudsman Act</i> . The powers and duties of the Ombudsman under FIPPA are discussed in Chapters 7 and 8 of this Manual.
<b>office</b>	The term "office" is not limited to a physical office, but can also apply to the functions and duties associated with that office.
<b>person</b>	Includes an individual (that is, a human being), but also includes a corporation and the heirs, executors, administrators or other legal representatives of a person. <sup>1</sup> Also see " <b>individual</b> ".

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<sup>1</sup> *The Interpretation Act* of Manitoba, section 17 and the Schedule of Definitions.  
<http://web2.gov.mb.ca/laws/statutes/ccsm/i080e.php>.

**personal health information\***

Recorded information about an identifiable individual that relates to

- (a) the individual's health, or health care history, including genetic information about the individual,
- (b) the provision of health care to the individual, or
- (c) payment for health care provided to the individual,

and includes

- (d) the PHIN as defined in *The Personal Health Information Act* and any other identifying number, symbol or particular assigned to an individual, and
- (e) any identifying information about the individual that is collected in the course of, and is incidental to, the provision of health care or payment for health care.

For the purposes of this definition, "health" and "health care" have the same meaning as in *The Personal Health Information Act*. "Health" means "the condition of being sound in mind, body and spirit".

"Health care" means any care, service or procedure

- (a) provided to diagnose, treat or maintain an individual's health,
- (b) provided to prevent disease or injury or promote health;
- (c) that affects the structure or a function of the body,

and includes the sale or dispensing of a drug, device, equipment or other item pursuant to a prescription.

This definition is discussed in Chapter 2 of this Manual.

***The Personal Health Information Act or PHIA***

The companion information privacy statute to FIPPA. PHIA regulates personal health information maintained by public bodies and other trustees. PHIA is discussed throughout this Manual, but particularly in Chapters 2, 5 and 6. PHIA can be found at:

<http://web2.gov.mb.ca/laws/statutes/ccsm/p033-5e.php>.

PHIA was amended by *The Personal Health Information Amendment Act*, S.M. 2008 c. 41. The amending Act can be found at:

<http://web2.gov.mb.ca/laws/statutes/ccsm/p033-5e.php>

<b>personal information*</b>	<p>Recorded information about an identifiable individual, including</p> <ul style="list-style-type: none"><li>(d) the individual's name,</li><li>(e) the individual's home address, or home telephone, facsimile or e-mail number,</li><li>(f) information about the individual's age, sex, sexual orientation, marital or family status,</li><li>(g) information about the individual's ancestry, race, colour, nationality, or national or ethnic origin,</li><li>(h) information about the individual's religion or creed, or religious belief, association or activity,</li><li>(i) personal health information about the individual,</li><li>(j) the individual's blood type, fingerprints or other hereditary characteristics,</li><li>(k) information about the individual's political belief, association or activity,</li><li>(l) information about the individual's education, employment or occupation, or educational, employment or occupational history,</li><li>(m) information about the individual's source of income or financial circumstances, activities or history,</li><li>(n) information about the individual's criminal history, including regulatory offences,</li><li>(o) the individual's own personal views or opinions, except if they are about another person,</li><li>(p) the views or opinions expressed about the individual by another person, and</li><li>(q) an identifying number, symbol or other particular assigned to the individual.</li></ul>
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The definition “personal information” is discussed in Chapter 2 of this Manual.

<b>potentially identifying information</b>	<p>In determining whether information is potentially identifying information about an individual (and is therefore personal information), one must look at the whole context – not only at the information itself, but also whether the information, when combined with information otherwise available, could reasonably be expected to identify an individual.</p>
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<b>prescribed</b>	<p>Prescribed by regulation, specifically the <i>Access and Privacy Regulation</i> under FIPPA. For example, FIPPA requires that an application for access to a record under Part 2 be made in the “prescribed form.” This form is found in the <i>Access and Privacy Regulation</i> under FIPPA.</p>
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**privacy impact assessment** An assessment, risk identification and risk mitigation process that assists public bodies in addressing the impact that a new initiative, such as a service, program, activity or legislation, may have on individual privacy.

Discussed in Chapter 6 of this Manual.

**proactive disclosure** Proactive disclosure occurs when information or records are periodically released, without any request, under a communications plan or practice.

Also see "**routine disclosure**".

**public body\*** For the purposes of FIPPA, "public body" means

- (a) a department,
- (b) a government agency,
- (c) the Executive Council Office,
- (d) the office of a minister, and
- (e) a local public body,

but does not include

- (f) the office of a Member of the Legislative Assembly who is not a minister,
- (g) the office of an officer of the Legislative Assembly, or
- (h) The Court of Appeal, the Court of Queen's Bench or the Provincial Court.

FIPPA applies to records in the custody or under the control of a "public body."

*Also see "**department, government agency, local public body, educational body, health care body and local government body**".*

Discussed in Chapter 2 of this Manual.

**reasonable** Fair, proper, just, moderate, suitable under the circumstances. There are a variety of situations under FIPPA where reasonableness comes into play in a decision or course of action on the part of the head of a public body, or a public body.

<b>reasonable expectation of harm</b>	<p>In the context of certain exceptions to access in Part 2 of FIPPA – Access to Information – the phrase “reasonable expectation of harm” requires a reasonable expectation of <u>probable</u>, not <u>possible</u>, harm – it requires that the facts establish a <u>likelihood</u> that the specified harm will result from the disclosure of the record. There is a cause and effect relationship between the disclosure and the harm; and the likelihood of harm is genuine and conceivable.</p> <p>Discussed in Chapter 5 of this Manual.</p>
<b>record*</b>	<p>Means 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.</p> <p>This definition is discussed in Chapter 2 of this Manual.</p>
<b>responsible minister*</b>	<p>The member of Cabinet (the Executive Council) charged by the Lieutenant Governor in Council with the administration of FIPPA. The Minister responsible for FIPPA is the Minister of Culture, Heritage and Tourism.</p> <p><i>Also see “<b>Minister Responsible for FIPPA</b>”.</i></p> <p>Discussed in Chapter 3 of this Manual.</p>
<b>responsive records or information</b>	<p>In the context of an access request under Part 2 of FIPPA – Access to Information – any information or records that respond to, are reasonably related to, the applicant’s access request. Responsiveness is determined by analyzing the request and examining the information in the records.</p> <p>Discussed in Chapter 5 of this Manual.</p>
<b>review</b>	<p>In the context of the independent review of complaints about access and privacy decisions made by public bodies under FIPPA, when a public body has not acted on the recommendations of the Ombudsman, the Ombudsman may request that the Information and Privacy Adjudicator review the matter. The Adjudicator has the power to make an order against a public body that has not acted in the Ombudsman’s recommendations.</p> <p><i>Also see “<b>adjudicator</b>”.</i></p> <p>Discussed in Chapter 8 of this Manual.</p>

<b>routine disclosure</b>	<p>Routine disclosure occurs when access to a record is given without a formal request under FIPPA, usually in response to a routine inquiry or request.</p> <p><i>Also see “proactive disclosure”.</i></p> <p>Discussed in Chapters 2 and 3 of this Manual.</p>
<b>severing</b>	<p>The physical removal, by masking, obscuring or other means, of any information that is excepted from access so that the remainder may be disclosed.</p> <p>Discussed in Chapter 4 of this Manual.</p>
<b>third party*</b>	<p>Means a person, group of persons or an organization other than the person making a request for access under Part 2 of FIPPA or a public body.</p> <p>This definition is discussed in Chapter 2 of this Manual.</p>
<b>use</b>	<p>To "use" information means to deal with or employ it. In the context of Part 3 of FIPPA, use of information occurs when officers, staff, contractors or agents deal with the information for the purposes of the public body that has custody or control of the information.</p> <p>Discussed in Chapter 6 of this Manual.</p>