ACCESS PROCEDURE

Under Ontario's *Freedom of Information and Protection of Privacy Act*

Applicant makes record request (s. 24)

(a) request must be in writing;
(b) applicant must provide sufficient detail; and
(c) applicant must pay fee prescribed by regulation

ACCESSPRIVACY BY OSLER

1

Is the head of the opinion that request is frivolous or vexatious?

NO → **2**

YES →

Written notice must be provided to the requester explaining why the head of the government institution ("**head**") considers the request to be frivolous or vexatious and informing the requester of right to appeal. s. 27.1

→ **ACCESS DENIED**

2

Does the head require a time extension?

YES →

Must be reasonable in circumstances where:
- Large number of records, or
- Need for third-party ("**3P**") consultation s. 27(1)

Written notice must be given to requester setting out length of extension and the reason, and informing requester of his/her right to seek review by Commissioner. s. 27(2)

→ **3**

NO →

Written response must be provided within 30 days of request. s. 26

→ **3**

3

Does the institution have custody or control of the requested record?

YES →

Does another government institution have a greater interest in the record?

YES →

The head **may** forward the request to the other institution within 15 days and give written notice to requester. s. 25(2)

→ **4**

NO →

The head **must** forward the request to the other institution within 15 days and give written notice to requester. s. 25(1)

NO →

Does another government institution have the requested record?

YES →

The head must give the requester notice of refusal. ss 29(1)–(3)

→ **ACCESS DENIED**

NO →

→ **4**

4

Do exclusions and exemptions apply to the requested record? ss. 12–22, 65

YES →

Is the exemption mandatory or discretionary?

If mandatory, can records be severed?

YES →

The head must sever the records accordingly. s. 10(2)

→ **PARTIAL RELEASE**

NO →

The head must give requester notice of refusal. ss 29(1)–(3)

→ **ACCESS DENIED**

If discretionary, will head exercise discretion to disclose?

NO →

→ **5**

YES →

→ **5**

NO →

RECORDS RELEASED

5

Would release or partial release affect the interests of another organization or individual (third-party)?

YES →

If yes, the head must within 30 days of receiving the access request (or within extended time limit, as applicable) provide written notice to the:
1) affected third-party ("**3P**") inviting them to make representations as to why the record should not be disclosed. s. 28(1)–(3)
AND
2) requester informing them that disclosure may affect 3P interests and advising them of delay. s. 28(4)

The 3P has 20 days to make representations to the head. s. 28(5)

The head has 10 days after the expiry of time for making 3P representations to decide whether or not to disclose the requested information s. 28(7).

Has the head decided to disclose?

YES →

The head shall give written notice of decision to both the 3P and the requester s. 28(7) and inform the 3P of their right to appeal the decision to the Commissioner within 30 days. If the 3P does not appeal within that time, the head shall provide access to the requester. s. 28(9)

→ **RECORDS OR PARTIAL RECORDS RELEASED, IF NO APPEAL**

NO →

The head shall give written notice of decision to both 3P and requester. s. 28(7)

→ **ACCESS DENIED**

NO →

RECORDS OR PARTIAL RECORDS RELEASED

NOTE:

Has the 30-day time limit, or extended time limit elapsed? → Unless the head has provided the required written notices advising of the need for an extension or need to consult affected third-parties, the head will be deemed to have refused access. s. 29(4) → **DEEMED REFUSAL**