

**ANNUAL  
REPORT  
2019**

Freedom of  
Information  
*and* Protection  
of Privacy  
Act

Manitoba 





**MINISTER OF  
FINANCE**

Legislative Building  
Winnipeg, Manitoba, CANADA  
R3C 0V8

The Honourable Myrna Driedger  
Speaker of the Legislative Assembly  
Province of Manitoba  
Room 244 Legislative Building  
Winnipeg MB R3C 0V8

Madam Speaker:

In accordance with Section 83 of The Freedom of Information and Protection of Privacy Act, I am pleased to submit the twenty-second annual report of the administration of the act and regulation by Manitoba government departments, government agencies and local public bodies for the period from January 1, 2019 to December 31, 2019.

Respectfully submitted,

Original signed by,  
Honourable Scott Fielding  
Minister of Finance





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# INTRODUCTION

The 22<sup>nd</sup> annual report from the Minister responsible for central administration of The Freedom of Information and Protection of Privacy Act (FIPPA) statistically summarizes the activities of Manitoba government departments, government agencies and local public bodies in responding to requests for access to records and protecting personal information under the act from January 1 to December 31, 2019.

FIPPA was passed on June 27, 1997. It was proclaimed for provincial government departments and government agencies on May 4, 1998 and for the City of Winnipeg on August 31, 1998. On April 4, 2000, the act was proclaimed for local governments, educational bodies and health care bodies. The Freedom of Information and Protection of Privacy Amendment Act was passed on October 9, 2008 and came into force on January 1, 2011. This act represented the first substantial amendment to FIPPA following a review of the act that involved public representations.

FIPPA provides a qualified legal right of access to records in the custody or under the control of public bodies. This right of access is in addition to any rights of access already available under existing provincial laws. Access to any record is subject to four mandatory and twelve discretionary exceptions to disclosure under FIPPA. If an applicant is dissatisfied with the response of a public body, the act provides for review by the Manitoba Ombudsman and referral to the Access and Privacy Adjudicator as necessary.

FIPPA provides privacy protection for personal information held by public bodies, based on internationally recognized principles of fair information practices. It imposes obligations on public bodies with respect to the collection, use, disclosure, accuracy, retention and security of personal information.

# INFORMATION AND PRIVACY POLICY SECRETARIAT

The Information and Privacy Policy Secretariat, a branch of Manitoba Finance, is responsible for central administration and coordination of The Freedom of Information and Protection of Privacy Act (FIPPA).

The Secretariat provides Access and Privacy Coordinators and Officers of all public bodies with guidance on the administrative requirements of FIPPA. This is carried out by offering educational opportunities and responding to consultation requests. In 2019, the Secretariat provided:

- training to 147 Access and Privacy Coordinators and Officers who are employees of public bodies that have specific FIPPA-related roles. This included training sessions, offered both in-person and online, on the process for responding to access requests and the requirements for protecting privacy; delivering customized presentations on specific access and privacy topics upon request; and meeting with Access and Privacy Coordinators of government departments and agencies to exchange information concerning best practices and emerging issues.
- consultation services to government departments and agencies, and some local public bodies, upon request with respect to their personal information management practices. This involved supporting them through an assessment of how privacy protection is integrated into their business processes.

It is also important that all employees of public bodies lend to their public body's compliance with FIPPA. To increase knowledge and understanding of the act, the Secretariat delivered in-person and online FIPPA Awareness training sessions to 812 employees of public bodies during 2019.

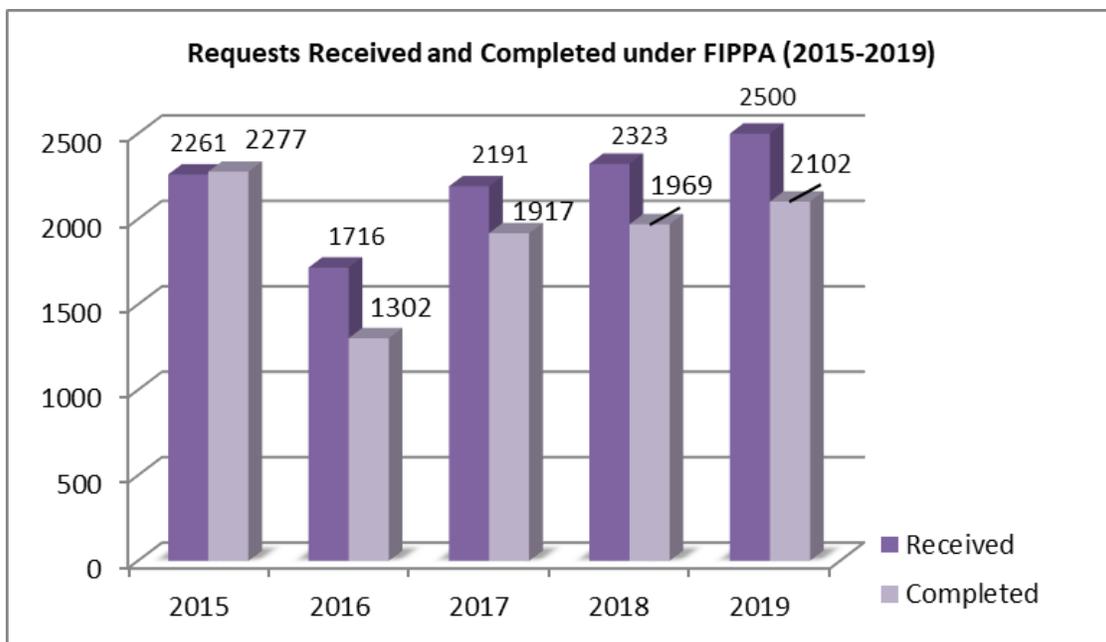
Furthermore, the Secretariat provides a help desk service about FIPPA and related access to information and privacy protection topics to public bodies, organizations and members of the public. In 2019, over 1,100 enquiries were addressed through the help desk.

# FIPPA STATISTICS

## Government Departments and Agencies

### Number of Requests Received

Manitoba government departments and agencies reported receiving 2,500 requests for access during the period from January 1 to December 31, 2019. This number represents an increase over the 2,323 requests received during 2018.



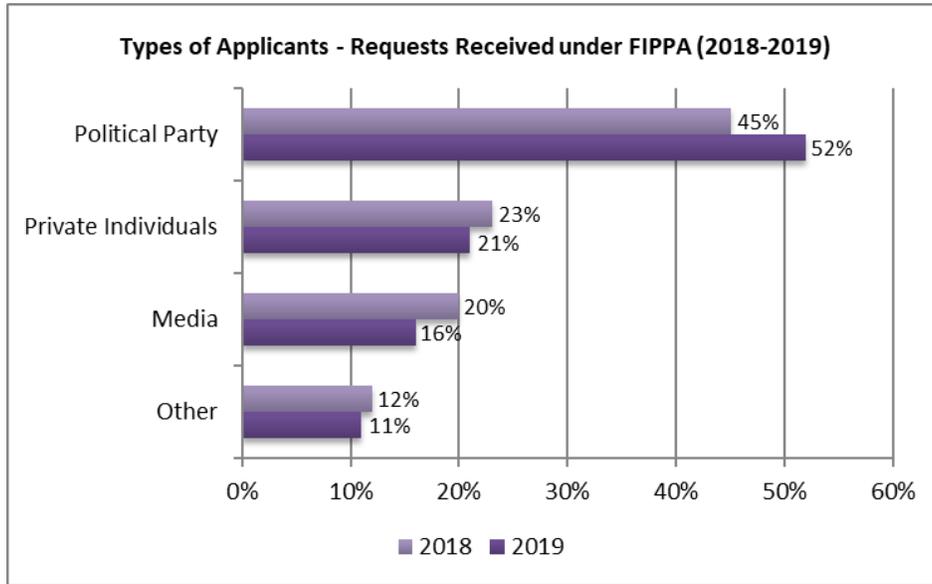
The departments that received the highest number of requests were Justice (292), and Health, Seniors and Active Living (257).

### Top 10 – Requests for Personal and General Information

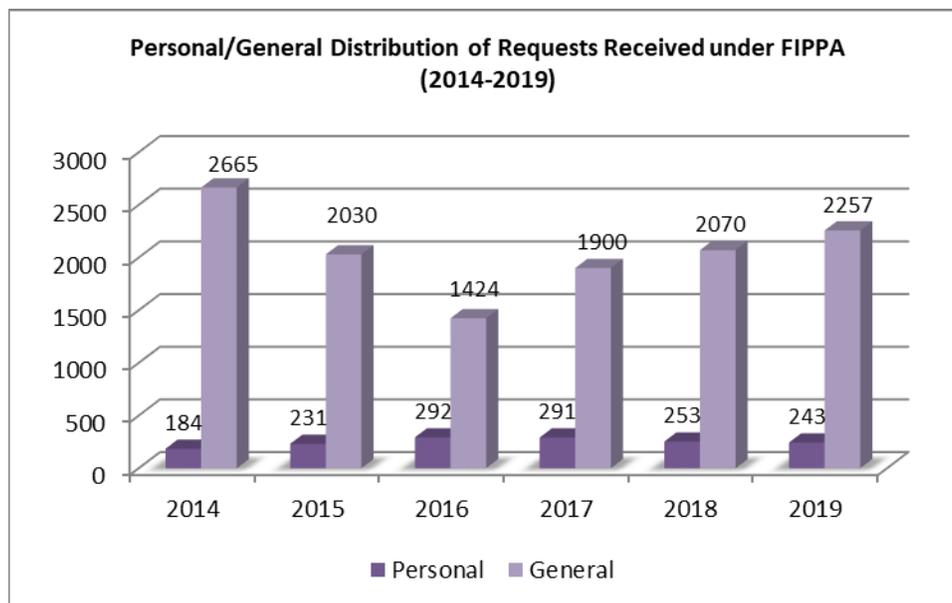
|  |     |
|--|-----|
| Justice  | 292 |
| Health, Seniors and Active Living                                  | 257 |
| Families   | 251 |
| Education and Training/ Education                                  | 220 |
| Finance  | 204 |
| Sustainable Development/ Conservation and Climate                  | 157 |
| Manitoba Public Insurance  | 119 |
| Executive Council  | 117 |
| Growth, Enterprise and Trade/<br>Economic Development and Training | 114 |
| Infrastructure   | 104 |

## Types of Applicants

Out of the 2,500 requests for access received in 2019, private individuals made 520 requests (21 per cent), down from 531 (23 per cent) in 2018. Political parties submitted 1,320 requests (52 per cent), a significant increase from 1,058 (45 per cent) the previous year. Media representatives submitted 396 requests (16 per cent), down from 460 (20 per cent) received in 2018. Other organizations submitted 264 requests (11 per cent), down slightly from 274 (12 per cent) the previous year.



Of the 2,500 requests received in 2019, 2248 (90 per cent) were requests for general information and 243 (10 per cent) were requests for personal information. Out of the 2,323 requests received in 2018, 2070 (89 per cent) were for general information and 253 (11 per cent) were for personal information.

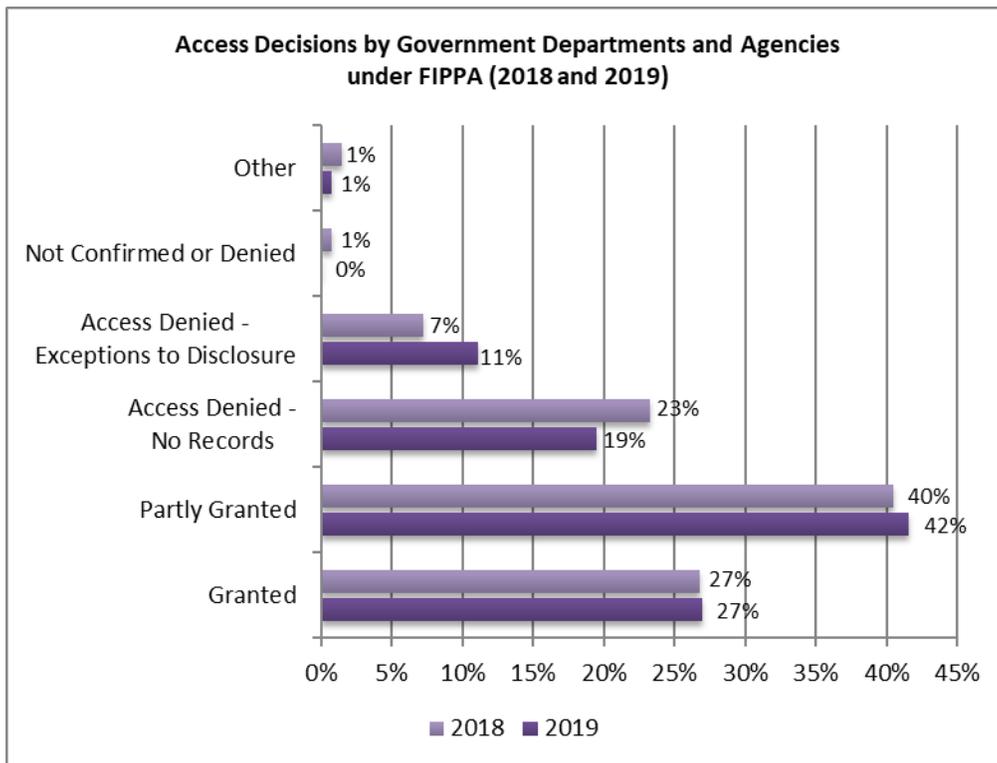


# Number of Requests Completed

## Access Decisions

Government departments and agencies completed 2,102 requests for access in 2019. The number of completed requests differs from the number of requests received because it excludes requests that were withdrawn, abandoned, out of scope, or for which information was publicly available.

Full access was granted in response to 566 requests (27 per cent). Access was partly granted in an additional 874 requests (42 per cent). Access was denied in 409 requests (19 per cent) because there were no responsive records. Access was denied due to applicable exceptions to disclosure in 234 requests (11 per cent). In 2018, 528 requests (27 per cent) were granted full access and in 797 requests (40 per cent) access was partly granted. Access was denied in 458 requests (23 per cent) because there were no records and access was denied in 142 requests (7 per cent) due to exceptions to disclosure.



## Reasons for Denial of Access

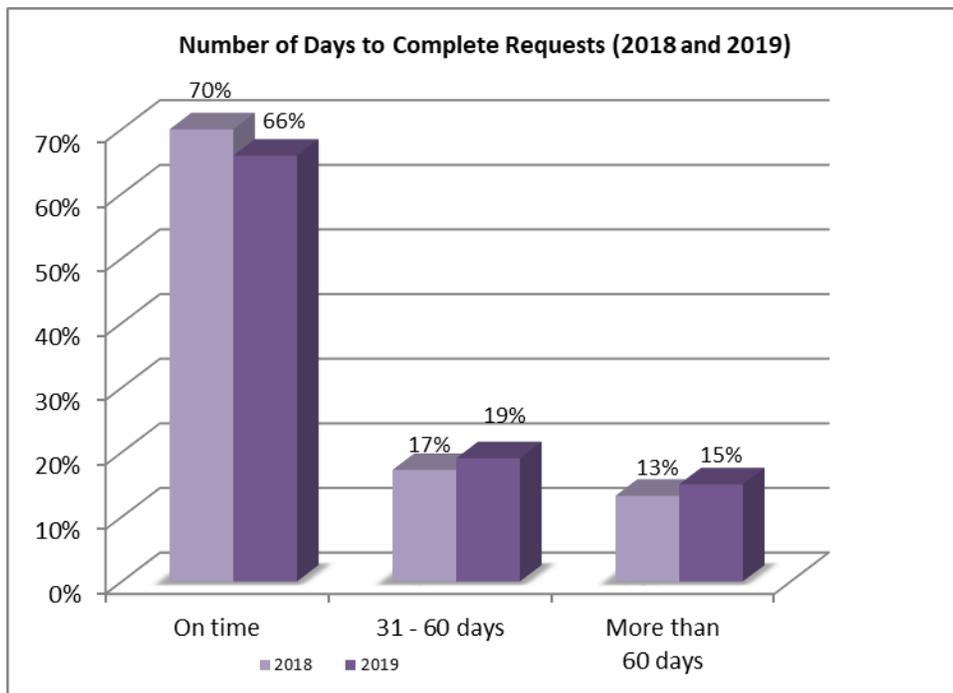
When public bodies sever information from a record or withhold a record completely, they must indicate which “exception to disclosure” provision of FIPPA was used to authorize the decision to refuse access. Public bodies must deny access if a mandatory exception applies to the requested information, but may choose to release or withhold information if a discretionary exception applies.

The most frequently applied mandatory exception to disclosure was protection of a third party’s privacy. It was applied to 424 requests in 2019, down from 456 in 2018. The second most frequently used mandatory exception, third party’s business interests, was used in 169 requests. In 2018 the second most frequently applied mandatory exception was Cabinet confidences, applied 145 times. Advice to a public body was the most frequent discretionary exception, used in responding to 611 requests in 2019, up from 492 in 2018.

| Sections of the Act Used | Exceptions to Disclosure                                    | Number of Requests Applied |
|--------------------------|---|----------------------------|
| Mandatory                |   |                            |
| 17                       | Third party’s privacy                                       | 424                        |
| 18                       | Third party’s business interests                            | 169                        |
| 19                       | Cabinet confidences   | 166                        |
| 20                       | Information provided in confidence by another government    | 78                         |
| Discretionary            |   |                            |
| 21                       | Harmful to relations between Manitoba and other governments | 95                         |
| 22                       | Local public body confidences                               | 2                          |
| 23                       | Advice to public body                                       | 612                        |
| 24                       | Harmful to individual and public safety                     | 40                         |
| 25                       | Harmful to law enforcement or legal proceedings             | 75                         |
| 26                       | Harmful to security of property                             | 54                         |
| 27                       | Solicitor– client privilege                                 | 81                         |
| 28                       | Harmful to economic and other interests of a public body    | 84                         |
| 29                       | Testing procedures, tests and audits                        | 8                          |
| 30                       | Confidential evaluations about the applicant                | 2                          |
| 31                       | Preservation of heritage resources and life forms           | 0                          |
| 32                       | Information that will be available to the public            | 28                         |

## Response Time

A total of 1,385 or 66 per cent of the 2,102 requests completed by government departments and agencies during 2019 were sent responses within the required time limit or considered on time. "On time response" includes requests completed within the 30 calendar days specified in the act, as well as those that were the subject of an authorized extension. FIPPA permits a public body to extend the time for responding to a request (30 days) by up to an additional 30 days in certain circumstances. This includes when a large number of records must be searched, or when time is needed to consult with a third party or another public body before deciding whether to grant access. The Manitoba Ombudsman may also authorize an extension to give a public body more than 60 days to respond under certain circumstances.



Please Note: Requests shown on this chart as "On Time" represent those completed within the 30 calendar days specified in the act, as well as those that were the subject of an authorized extension. The other categories reflect those responses that were provided after the authorized time frames required by FIPPA.

## Fees

Under FIPPA, there is no fee for making an application or for the time spent by officials reviewing records to determine if any exceptions to disclosure apply. There is also a free records search and preparation period of two hours. However, the Access and Privacy Regulation allows fees to be charged for additional search and preparation time, copying, computer programming and data processing costs. In 2019, a total of \$4,784 was collected. Search and preparation fees accounted for 66 per cent of the total fees collected. Requests for general information accounted for 94 per cent of the fees collected in 2019.

| <b>Total Fees Collected</b> |                  |             |
|-----------------------------|------------------|-------------|
| Type of fee                 | Amount collected |             |
|                             | <b>2018</b>      | <b>2019</b> |
| Search and preparation      | \$1,035          | \$3,135     |
| Copying                     | \$100            | \$1,019     |
| Computer programming        | \$0              | \$630       |
| Total                       | \$1,135          | \$4,784     |

## Fees Waived

FIPPA provides that at the applicant's request, the head of a public body may waive all or part of the fees payable if payment would impose an unreasonable financial hardship on the applicant; the request for access relates to the applicant's own personal information and waiving the fees would be reasonable and fair in the circumstances; or the record relates to a matter of public interest concerning public health or safety or the environment. Government departments and agencies reported fee waivers totaling \$1,266 in 2019.

## **Time and Costs to Departments and Agencies**

Government departments and agencies reported spending a total of 11,395 hours in 2019 responding to FIPPA requests, compared to 13,218 hours in 2018. Responding to FIPPA requests includes time for search and preparation. Time spent responding to requests was reported to be 9,319 hours for general information and 2,076 hours for personal information. In addition, 669 hours were spent responding to Ombudsman investigations and 3 hours responding to court appeals.

Responding to FIPPA requests also cost departments and agencies a total of \$25,113 in 2019; \$1,825 for copying, \$599 for computer programming and \$22,690 in legal charges. Total costs reported by departments and agencies in 2018 were \$33,304.

The cost of central administration services provided by the Information and Privacy Policy Secretariat are not included in these figures.

## **Protection of Privacy**

FIPPA requires that public bodies implement standards and procedures in their day-to-day management of the personal information in their custody or under their control. The act covers matters such as why and how personal information may be collected, the need to maintain its accuracy and allow people to correct their own information, the storage and protection of personal information, its use by the public body, and disclosures outside the public body.

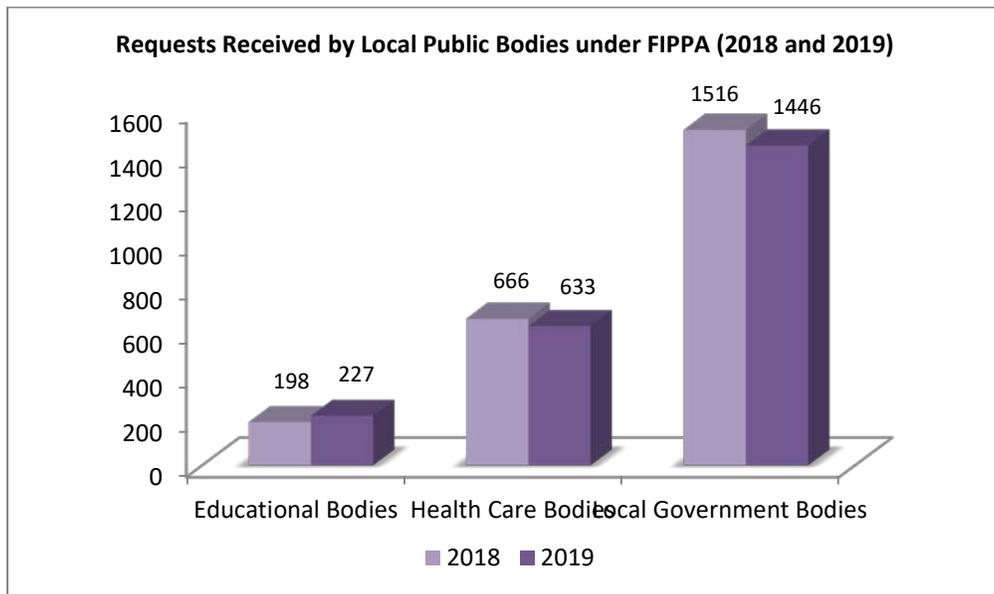
Three requests for correction of personal information were reported in 2019, two by Manitoba Families and one by Manitoba Justice.

# Local Public Bodies

As defined in FIPPA, local public bodies include educational bodies (school divisions, colleges and universities), health care bodies (regional health authorities and hospitals) and local government bodies (municipalities, community councils under The Northern Affairs Act, watershed districts, planning districts and police boards established by municipalities including the City of Winnipeg). At the end of 2019, there were 311 local public bodies. Municipalities accounted for close to half of all local public bodies. Annual reports were received from 190 local public bodies, representing 61 per cent of the total number.

## Number of Requests Received

A total of 2,306 requests for access were made to local public bodies in 2019, a slight decrease from 2,380 in 2018.



The local public bodies that received the highest number of requests during the year were the City of Winnipeg (1,223) and the Winnipeg Regional Health Authority (273).

### Top 10 – Requests to Local Public Bodies

|   |       |
|---|-------|
| City of Winnipeg                            | 1,223 |
| Winnipeg Regional Health Authority          | 273   |
| Shared Health                               | 93    |
| Rural Municipality of Mountain              | 84    |
| Southern Health/ Santé Sud                  | 65    |
| University of Manitoba                      | 61    |
| Prairie Mountain Health                     | 46    |
| Northern Health Region                      | 39    |
| Interlake-Eastern Regional Health Authority | 38    |
| St. Boniface General Hospital               | 37    |

# **Number of Requests Completed**

## **Access Decisions**

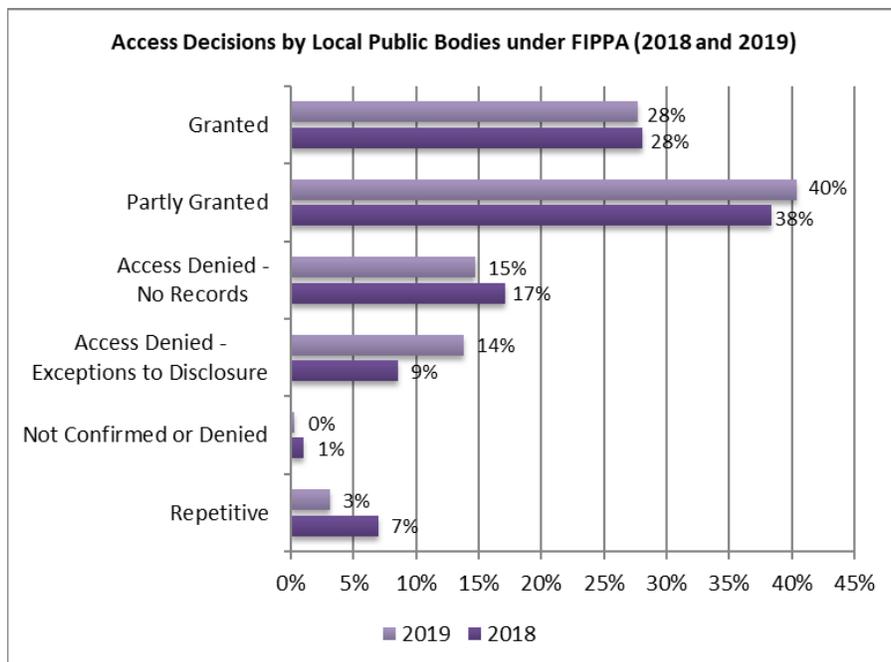
Local public bodies completed 2,045 requests during the year. A total of 567 requests (28 per cent) were granted access to all records requested and an additional 827 (40 per cent) were partly granted access. In 2018, 560 (28 per cent) of the requests were fully granted and 775 (39 per cent) were partly granted.

School divisions granted full access to 68 per cent of requests and partial access to 12 per cent. In 2018, school divisions granted full access to 45 per cent of requests and partial access to 24 per cent. Universities and colleges granted full access in 26 per cent of the requests and partial access in 31 per cent. In 2018, universities and colleges granted full access to 35 per cent of requests and partial access to 32 per cent.

Regional health authorities and other health care bodies granted full access in 32 per cent of the requests and partial access in another 21 per cent. In 2018, health care bodies granted full access to 37 per cent of requests and partial access to 30 per cent.

Local government bodies granted full access to 21 per cent of the requests and partial access to 53 per cent. In 2018, local government bodies granted full access to 21 per cent of requests and partial access to 45 per cent.

When access was fully or partly denied, the exceptions most frequently cited by local public bodies were protection of third party privacy (658 requests), disclosure harmful to law enforcement or legal proceedings (492 requests) and disclosure harmful to security of property (208 requests). In 2018, the exceptions most frequently cited by local public bodies were protection of third party privacy (128 requests), advice to a public body (102 requests) and business interests of a third party (49 requests).



## **Response Time**

A total of 1,765 requests (86 per cent) received by local public bodies were completed within the required time limit or considered “on time” because they were completed within the timeframe of an authorized extension. One-hundred-twenty requests (six per cent) were completed within 31 to 60 days without an authorized extension. The remaining 160 requests (eight per cent) were processed in more than 60 days without an authorized extension.

## **Fees and Corrections**

Five local public bodies charged fees totaling \$6,717.49 in accordance with the Access and Privacy Regulation. The City of Winnipeg collected the largest amount of fees, with a total of \$5,339.60 for search and preparation, computer programming and copying. The Winnipeg Regional Health Authority reported the second highest amount of fees, with a total of \$1,160.30 collected.

Local public bodies received six requests for correction of personal information in 2019.

# Oversight

The Manitoba Ombudsman is responsible for oversight of Manitoba public bodies in their administration of FIPPA. An individual has a right to make a complaint about any decision, act or failure to act by a public body in response to an access request. Individuals who believe that their personal information has been collected, used or disclosed in violation of the privacy protection provisions of FIPPA may make a complaint to the Ombudsman.

The Ombudsman also has the power to conduct audits of public bodies to ensure compliance and make comments, recommendations and inform the public about the act.

The Ombudsman reports annually to the Speaker of the Legislative Assembly on the performance of the duties and function of this office under The Freedom of Information and Protection of Privacy Act (FIPPA). The Ombudsman's report is issued separately.

# FIPPA SUPPLEMENTARY STATISTICS

The Information and Privacy Policy Secretariat maintains supplementary statistics about the administration of the act. The supplementary statistics are available online at:

[https://www.gov.mb.ca/fippa/annual\\_reports/pdf/fippa\\_supp\\_stats2019.pdf](https://www.gov.mb.ca/fippa/annual_reports/pdf/fippa_supp_stats2019.pdf)

1. Requests Received and Completed under FIPPA (2010-2019)
2. Personal/General Distribution of Requests under FIPPA (2010-2019)
3. Types of Applicants using FIPPA (2014-2019)
4. Access Decisions under FIPPA (2010-2019)
5. Requests Received by Departments in 2019
6. Requests Received by Government Agencies in 2019
7. Reasons for Denial of Access under FIPPA in 2018 and 2019
8. Fees Collected under FIPPA (2012-2019)
9. Reported Costs of Responding to Requests under FIPPA (2011-2019)
10. Local Public Bodies' Experience under FIPPA in 2019
11. Requests Received and Completed by Educational Bodies in 2019
12. Requests Received and Completed by Health Care Bodies in 2019
13. Requests Received and Completed by Local Government Bodies in 2019
14. Local Public Bodies' Comparative Yearly Experience (2016-2019)

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