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# FIPPA Requests : A How-To Workshop

Lisa Di Valentino

*The University of Western Ontario, ldivalen@uwo.ca*

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# FIPPA Requests



A how-to workshop

Lisa Di Valentino  
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# Agenda

1. Background (legislation)
2. How to create a request
3. When the institution receives the request
4. Appeals
5. Exercise

# Background

- ☞ Canadians have the right to “request access to recorded information held by government organizations” (IPC)
- ☞ “government organizations” includes schools and hospitals
- ☞ there are various statutes regulating the process, depending on the jurisdiction
  - federal government
  - provincial/territorial government
  - municipal government

# Background

- ⌘ the statute applicable to Ontario government information is the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c.F31 [FIPPA]
- ⌘ FIPPA provides access to public government information
- ⌘ it also allows individuals to access and correct their own personal information held by government organizations
- ⌘ Ontario's Information and Privacy Commissioner is responsible for upholding the legislation
- ⌘ <http://www.ipc.on.ca/english/>
- ⌘ this office is independent of government

# Requesting information

- ∞ access procedure is described in FIPPA starting at s. 24
- ∞ government organizations will have an internal information and privacy office, or at least a person responsible for these requests (known as the “head”)
- ∞ [http://www.mgs.gov.on.ca/en/infoaccessandprivacy/STDU\\_102690.html](http://www.mgs.gov.on.ca/en/infoaccessandprivacy/STDU_102690.html)
- ∞ informal requests are welcome
- ∞ organization will have its own formal request form
- ∞ can also use generic request form at IPC web site, or write a letter
- ∞ request must be mailed, along with a \$5.00 fee

# Tips for requesting information

1. do some preliminary research
  - talk to someone knowledgeable about the information you are seeking
2. be clear and specific in your description
  - no word limit for description
  - will cut down on search time
  - more likely to receive relevant information
  - reduce processing fees
3. include date ranges, names, specific documents
4. exclude information that is explicitly unnecessary or unlikely to be supplied (e.g. solicitor-client communication)

# Example

“All documents, communications, and records, including all correspondence between The University of Western Ontario (or any of its agents and employees) and Access Copyright, the Canadian Licence Agency (or any of its agents and employees), pertaining to the university licence agreement dated January 30, 2011 (“the agreement”). This request is for the period January 30, 2011 and the date of this request and does not include documents, communications, records, and correspondence which the University would otherwise exclude under the solicitor-client privilege exclusion in section 19 of the Freedom of Information and Protection of Privacy Act (Ontario).”



# After request is sent

- ☞ organization will send letter of acknowledgment
- ☞ are required by s. 24(2) to help clear up request
- ☞ they have 30 days from date of receipt to make a final decision (but can extend with notice)
- ☞ will send letter with details of search, including processing fees
  - searching, preparing, copying of records
  - manual search and preparation is \$7.50 for 15 min (or \$30 per hour)
  - photocopies are 20¢ per page
- ☞ must specify how long it is expected to take and final cost

# After request is sent

- ∞ if cost is \$100 or more, can require deposit (you can ask for a fee waiver)
- ∞ must indicate whether third parties must be contacted
  - third party may contest release of information
- ∞ may indicate what they are planning on excluding
- ∞ final decision notice will indicate what information (if any) is available for access, and what information is relevant but excluded from access

# After request is sent

## ☞ exemptions in ss. 12-22

- solicitor-client privilege
- prejudicial to financial interests
- advice or recommendations to organization

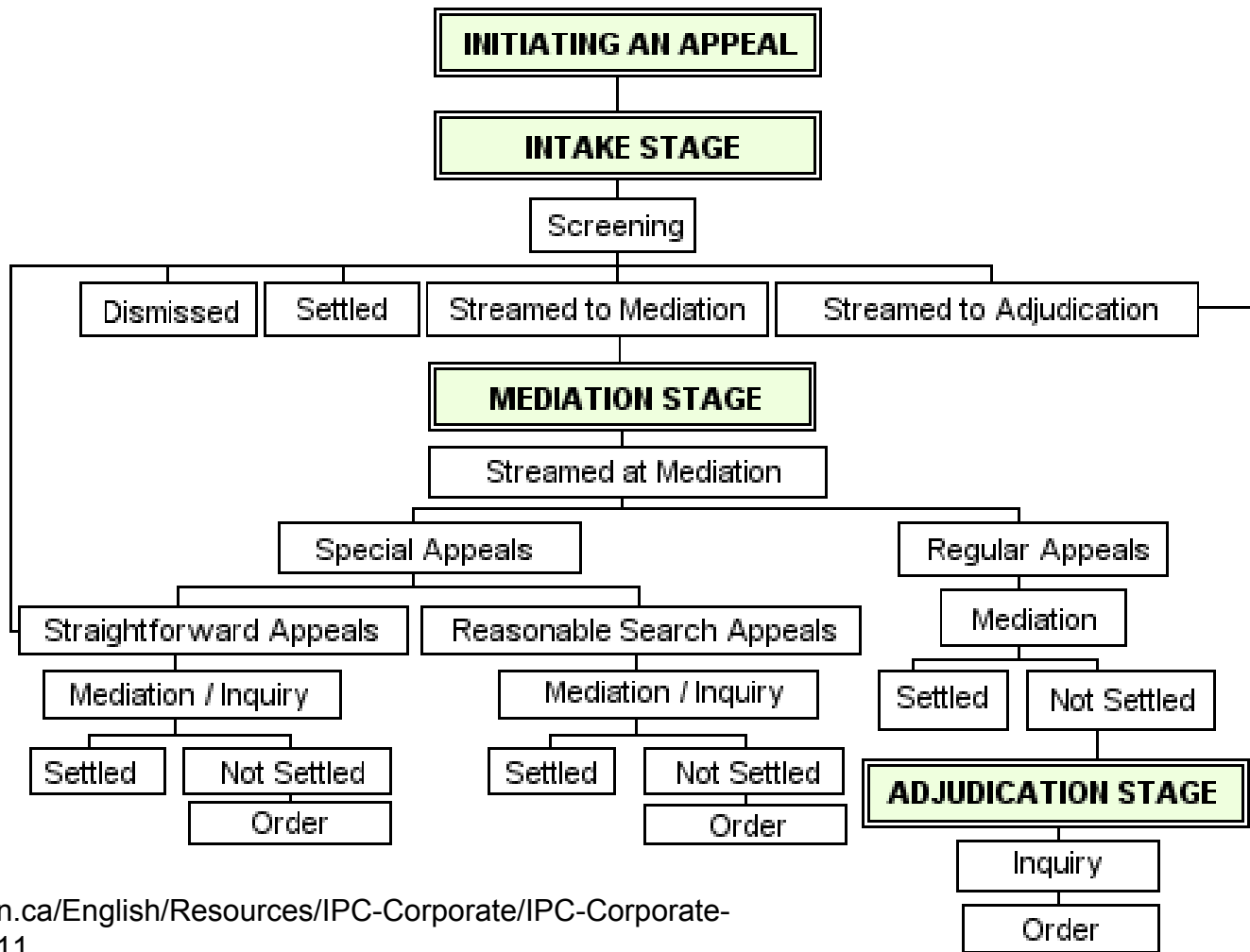
## ☞ but there are exceptions to these exemptions

- results of statistical survey
- committee report
- compelling public interest outweighs purpose of exemption (s. 23)

# Appeals

- ☞ organization's decision can be appealed to the IPC
- ☞ must be done within 30 days of notice of decision
  - can also appeal processing fee (within 30 days of fee estimate)
- ☞ form is located on IPC website
- ☞ <http://www.ipc.on.ca/english/access-to-information/appeals-for-public/>
- ☞ mail form, \$25 appeal fee, original FIPPA request, and copy of organization's decision to IPC
- ☞ can include a brief explanation of the basis of appeal
- ☞ does not need to be a legal argument

# Appeals



# Appeals

- ☞ majority of accepted appeals will go to mediation
- ☞ try to facilitate a compromise or resolution
- ☞ organization must supply contested documents to IPC
- ☞ may be asked to meet in person or by phone conference
- ☞ if unable to resolve through mediation, goes to adjudication
- ☞ here you will have to make representations (arguments supporting your position)
- ☞ adjudicator's order is binding
- ☞ further appeals will go to the courts (judicial review)

# Exercise

Prepare a request to Western for information related to the bibliographic survey. You want to know, at a minimum, if it has taken place (or when it is expected to take place) and the methodology. Determine if there is anything else you would need to know in order to make the request, and where (or from whom) you might find it.