

*Right to Information*

**2009-2010 Annual Report**

Department of Government Services

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## Introduction

The New Brunswick *Right to Information Act* was enacted in 1978 and proclaimed into force January 1, 1980. New Brunswick was the second jurisdiction in Canada to pass legislation giving a right to information concerning the public business of the Province to anyone wanting to know.

The *Act* was amended in 1979, 1982, 1985, 1986, 1995, 1998, 2002, and 2008. The 1995 amendment extended the scope of the *Act* to include the hospital corporations and school boards. Subsequently, the school boards as defined in the *Act* no longer exist. The 1998 amendments were a result of the introduction of the *Protection of Personal Information Act*.

The responsibility for this legislation lies with the Executive Council Office. The actual administration of the *Act* lies with the departments, boards and agencies of government as listed under Schedule A of the regulation to respond to requests received by the Minister as prescribed by the *Act*.

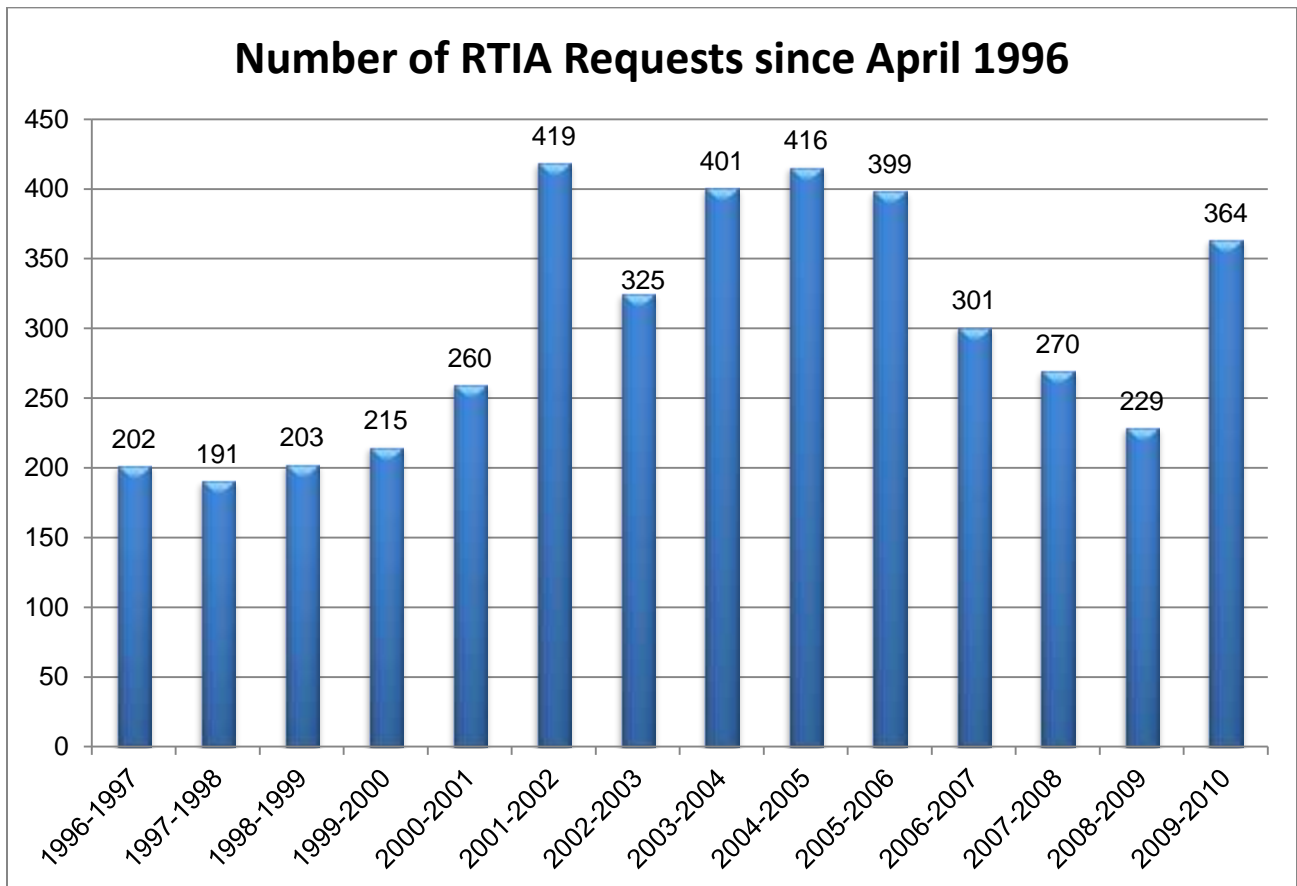
In 2007, the *Right to Information and Protection of Personal Information Task Force* was created with a mandate to review current access and privacy legislation, and make recommendations to improve the legislation and processes in New Brunswick.

Following the Task Force's final report in late 2007, Bill 82 – *Access to Information and Protection of Privacy Act* was introduced in the Legislature on June 5, 2008 and referred to the Standing Committee on Law Amendments. The committee's report was tabled in April 2009.

On May 29, 2009, Bill 89 – *Right to Information and Protection of Privacy Act* was subsequently introduced in the Legislature and given Royal Assent on June 19, 2009. It will be proclaimed on September 1<sup>st</sup>, 2010 where responsibility of this new Act transferred over to the Department of Supply and Services, thereby repealing the current *Right to Information Act*.

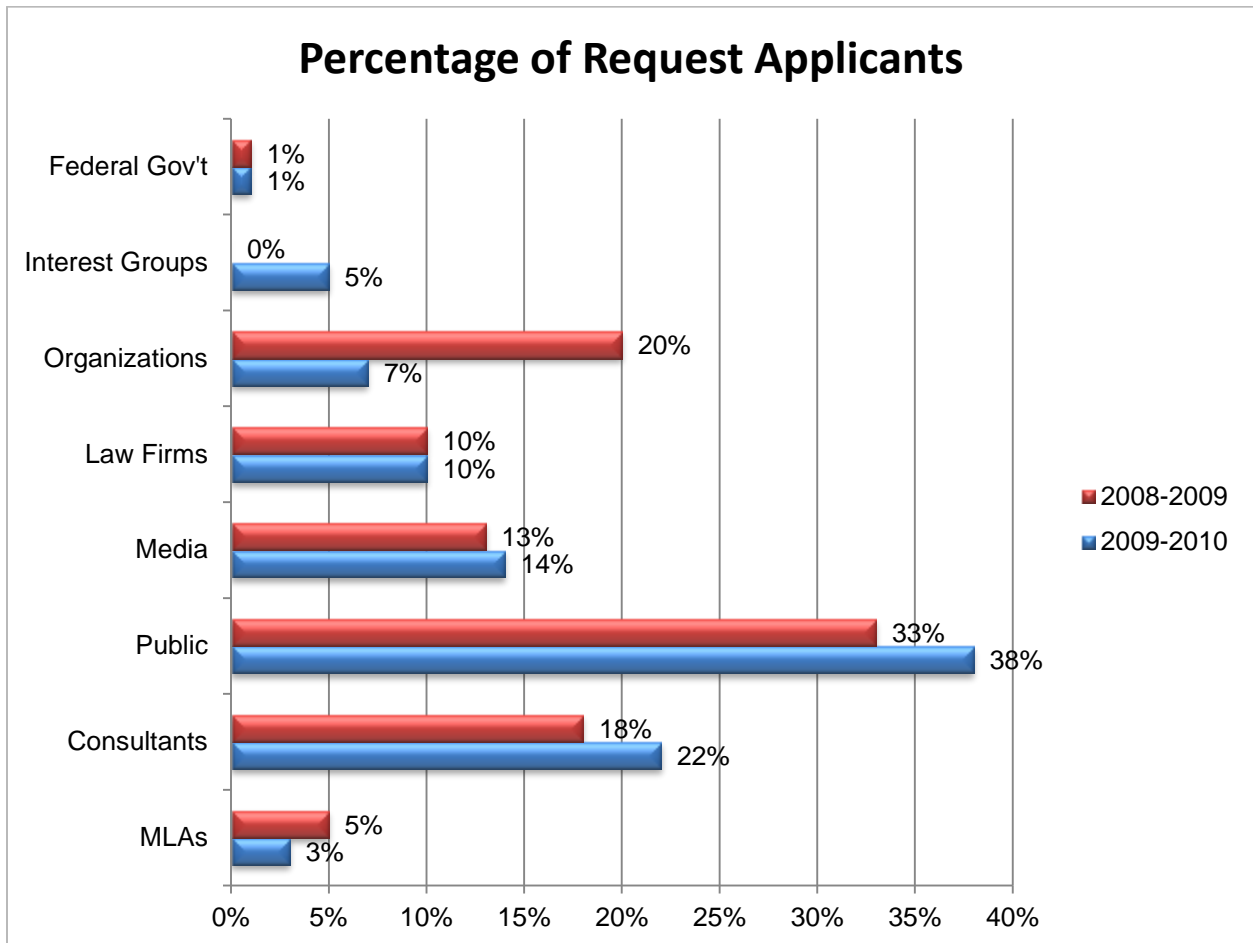
## Number of Requests Made to the New Brunswick Government

Government and other public bodies routinely make information available to the public. The *Right to Information Act* (RTIA) is used when information cannot be accessed through normal channels. In 2009-2010, 364 requests were received by New Brunswick public bodies, as compared to 229 requests received in 2008-2009.



## Who Made RTIA Requests?

In 2009-2010, 38% of the requests were submitted by the public, followed by the consultants with 22%, the media with 14%, and law firms with 10%. The remaining 16 % of the requests were from organizations (7%), interest groups (5%), Members of the Legislative Assembly (3%) and the federal government (1%).



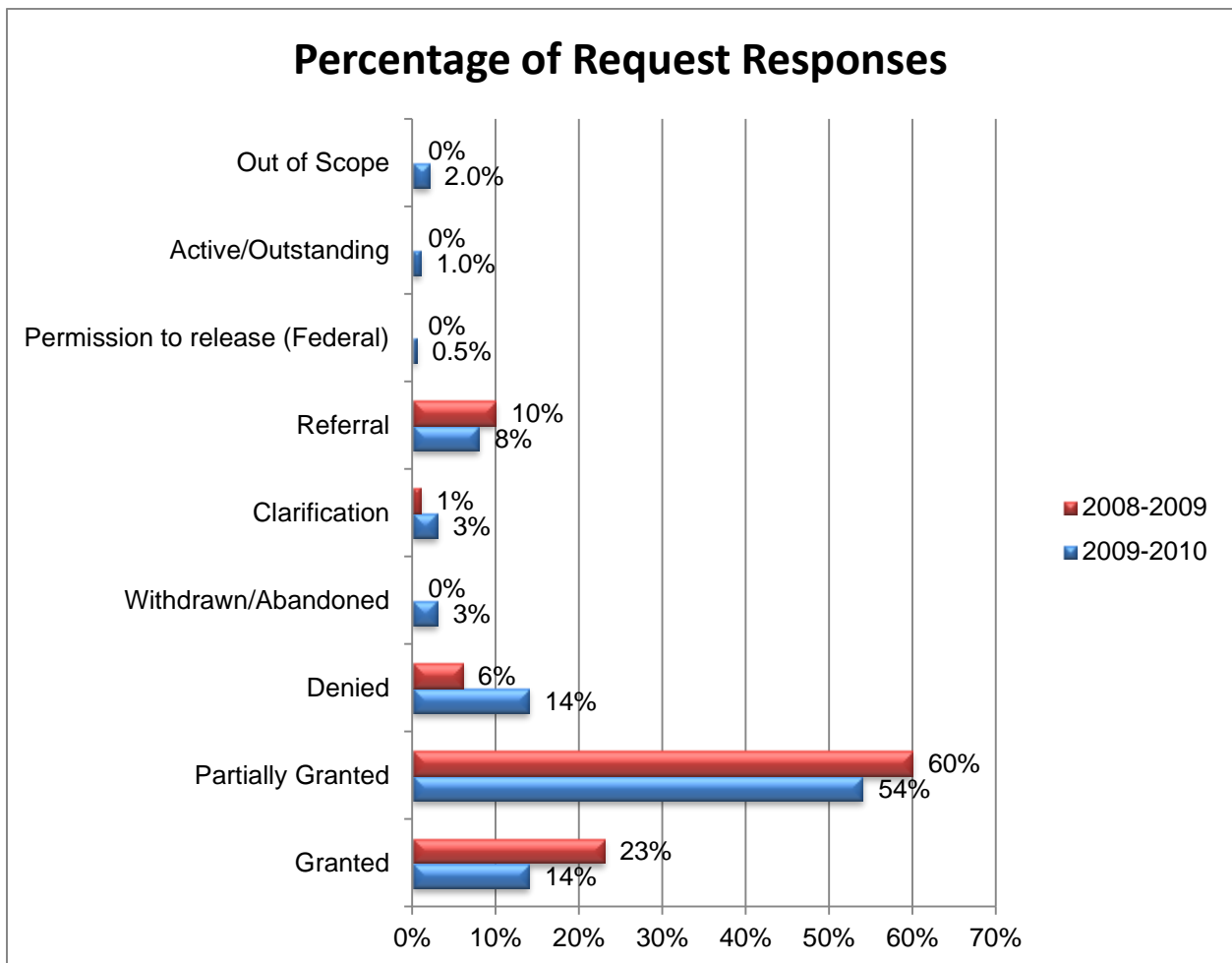
## Who Made RTIA Requests - by Public Bodies

<b>PUBLIC BODIES</b>	<b>MLAs</b>	<b>Consultants</b>	<b>Public</b>	<b>Media</b>	<b>Law Firms</b>	<b>Organizations</b>	<b>Interest Groups</b>	<b>Federal Gov't</b>	<b>TOTAL</b>
<b>Agriculture and Aquaculture</b>	-	-	-	-	1	2	2	-	<b>5</b>
<b>Business NB</b>	2	-	1	3	1	3	-	-	<b>10</b>
<b>Education</b>	1	-	17	1	2	-	3	-	<b>24</b>
<b>Energy</b>	1	-	5	12	2	2	1	-	<b>23</b>
<b>Environment</b>	-	78	11	-	6	4	3	-	<b>102</b>
<b>Executive Council Office</b>	-	-	3	-	1	2	-	-	<b>6</b>
<b>Finance</b>	1	-	6	6	2	1	1	-	<b>17</b>
<b>Fisheries</b>	-	-	1	-	-	1	-	-	<b>2</b>
<b>Health</b>	2	1	14	10	2	3	1	1	<b>34</b>
<b>Intergovernmental Affairs</b>	-	-	-	1	-	1	-	1	<b>3</b>
<b>Justice and Consumer Affairs and Attorney General</b>	2	-	10	2	-	1	-	1	<b>16</b>
<b>Local Government</b>	-	-	13	1	2	1	-	-	<b>17</b>
<b>Natural Resources</b>	-	-	5	1	6	2	1	-	<b>15</b>

<b>PUBLIC BODIES</b>	<b>MLAs</b>	<b>Consultants</b>	<b>Public</b>	<b>Media</b>	<b>Law Firms</b>	<b>Organizations</b>	<b>Interest Groups</b>	<b>Federal Gov't</b>	<b>TOTAL</b>
<b>Office of Human Resources</b>	-	-	1	-	-	-	-	-	<b>1</b>
<b>Post-Secondary Education, Training and Labour</b>	-	-	11	-	2	1	3	1	<b>18</b>
<b>Public Safety</b>	-	1	16	5	4	1	2	-	<b>29</b>
<b>Social Development</b>	-	-	5	1	-	-	-	-	<b>6</b>
<b>Supply and Services</b>	1	-	11	1	-	-	-	-	<b>13</b>
<b>Tourism and Parks</b>	-	-	-	-	-	-	1	-	<b>1</b>
<b>Transportation</b>	-	-	9	6	4	-	-	1	<b>20</b>
<b>Wellness, Culture and Sport</b>	-	-	1	-	-	1	-	-	<b>2</b>
<b>TOTALS</b>	<b>10</b>	<b>80</b>	<b>140</b>	<b>50</b>	<b>35</b>	<b>26</b>	<b>18</b>	<b>5</b>	<b>364</b>

## How Were RTIA Requests Processed?

In 2009-2010, public bodies disclosed or partially disclosed information 68.5% of the time (including getting permission to release from the Federal government); 16% of requests were either out of scope, withdrawn, referred or required clarification. 14% of the requests were denied, while the remaining 1% of the requests were still active.





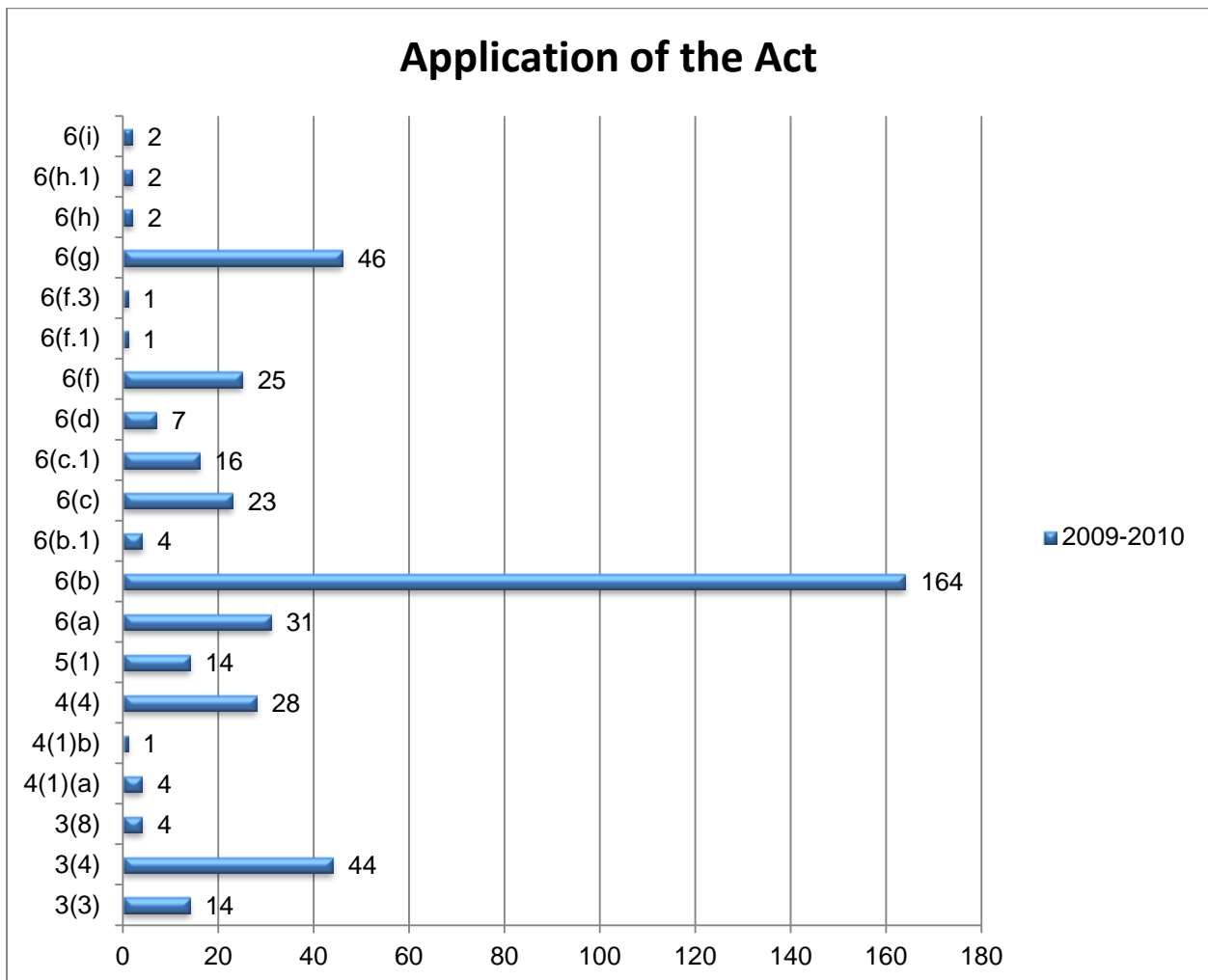
## How RTIA Requests Were Processed - by Public Bodies

<b>PUBLIC BODIES</b>	<b>Granted</b>	<b>Partially Granted</b>	<b>Denied</b>	<b>Withdrawn/ Abandoned</b>	<b>Clarification</b>	<b>Referral</b>	<b>Permission to release (Federal)</b>	<b>Out of scope</b>	<b>Active</b>	<b>TOTAL</b>
<b>Agriculture and Aquaculture</b>	1	2	1	-	-	1	-	-	-	<b>5</b>
<b>Business NB</b>	-	8	2	-	-	-	-	-	-	<b>10</b>
<b>Education</b>	3	13	6	1	-	1	-	-	-	<b>24</b>
<b>Energy</b>	4	8	2	-	6	-	-	-	3	<b>23</b>
<b>Environment</b>	11	82	7	1	-	1	-	-	-	<b>102</b>
<b>Executive Council Office</b>	-	1	3	-	-	2	-	-	-	<b>6</b>
<b>Finance</b>	2	1	5	1	3	5	-	-	-	<b>17</b>
<b>Fisheries</b>	-	1	-	-	-	1	-	-	-	<b>2</b>
<b>Health</b>	5	12	2	1	1	11	-	2	-	<b>34</b>
<b>Intergovernmental Affairs</b>	1	1	-	-	-	1	-	-	-	<b>3</b>
<b>Justice and Consumer Affairs and Attorney General</b>	1	5	5	-	1	1	1	2	-	<b>16</b>
<b>Local Government</b>	6	4	5	1	-	1	-	-	-	<b>17</b>
<b>Natural Resources</b>	3	10	1	-	-	-	-	1	-	<b>15</b>

<b>PUBLIC BODIES</b>	<b>Granted</b>	<b>Partially Granted</b>	<b>Denied</b>	<b>Withdrawn/ Abandoned</b>	<b>Clarification</b>	<b>Referral</b>	<b>Permission to release (Federal)</b>	<b>Out of scope</b>	<b>Active</b>	<b>TOTAL</b>
<b>Office of Human Resources</b>	-	-	-	-	-	-	-	-	1	<b>1</b>
<b>Post-Secondary Education, Training and Labour</b>	1	11	2	1	-	-	1	2	-	<b>18</b>
<b>Public Safety</b>	1	18	8	1	1	-	-	-	-	<b>29</b>
<b>Social Development</b>	-	5	-	-	-	1	-	-	-	<b>6</b>
<b>Supply and Services</b>	5	3	1	1	-	1	-	2	-	<b>13</b>
<b>Tourism and Parks</b>	-	1	-	-	-	-	-	-	-	<b>1</b>
<b>Transportation</b>	7	9	2	1	-	1	-	-	-	<b>20</b>
<b>Wellness, Culture and Sport</b>	-	1	-	-	-	1	-	-	-	<b>2</b>
<b>TOTALS</b>	<b>51</b>	<b>196</b>	<b>52</b>	<b>9</b>	<b>12</b>	<b>29</b>	<b>2</b>	<b>9</b>	<b>4</b>	<b>364</b>

## How the Act was Applied

When provincial government bodies sever information from a document or withhold a document, they must indicate which section of the *Act* authorizes the decision. The bar graph below indicates the number of times that a section was cited in response to requests. Because more than one section may be cited in response to a single request, the number of occurrences does not coincide with the total number of requests recorded for this fiscal year.



\*\*\*\*\* Number of times that the section was cited in response to requests\*\*\*\*\*

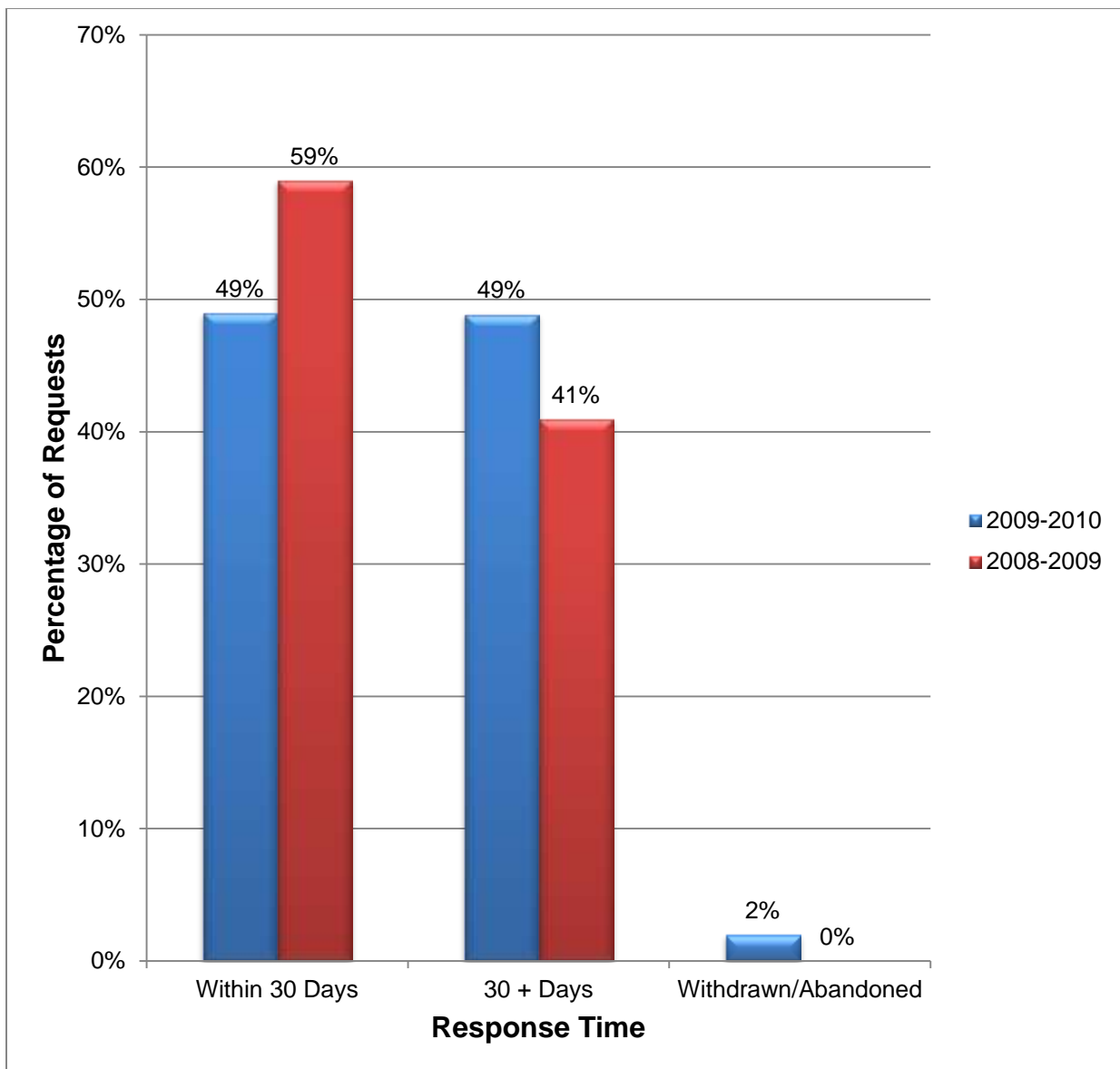
## How the Act was Applied - by Public Bodies

PUBLIC BODIES	3(3)	3(4)	3(8)	4 (1)(a)	4 (1)(b)	4(2)	4(4)	5 (1)	6(a)	6(b)	6(b.1)	6(c)	6(c.1)	6(d)	6(f)	6(f.1)	6(f.3)	6(g)	6(h)	6(h.1)	6(i)
Agriculture and Aquaculture	-	1	-	1	-	-	-	-	1	3	-	2	1	-	-	-	-	-	-	-	-
Business New Brunswick	-	1	-	-	-	-	1	-	1	6	-	6	7	2	2	-	-	6	-	-	-
Education	-	1	-	-	-	1	4	3	-	12	1	3	-	2	3	1	-	6	-	-	-
Energy	6	1	-	2	-	-	1	1	7	8	-	6	1	-	-	-	-	8	-	-	-
Environment	-	1	-	-	-	-	6	-	2	82	-	-	-	-	3	-	-	11	-	-	-
Executive Council Office	-	3	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-	-	-	-
Finance	6	5	-	-	-	1	1	1	1	-	-	-	-	-	-	-	-	1	-	-	-
Fisheries	-	1	-	-	-	-	-	-	-	1	-	1	1	1	1	-	-	1	-	-	-
Health	1	15	1	-	-	7	2	1	-	4	2	-	4	-	-	-	1	1	-	-	-
Intergovernmental Affairs	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Justice and Consumer Affairs and Attorney General	1	2	1	-	-	1	1	4	6	4	-	-	-	-	4	-	-	-	-	2	1
Local Government	-	3	1	-	-	1	-	2	-	2	-	-	-	-	1	-	-	-	-	-	-
Natural Resources	-	-	-	-	-	10	2	-	-	10	-	-	1	2	4	-	-	3	2	-	-
Post-Secondary Education, Training and Labour	-	2	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-
Public Safety	-	1	-	1	1	5	9	1	2	17	-	-	-	-	2	-	-	-	-	-	1
Social Development	-	2	-	-	-	-	-	-	5	5	-	-	-	-	-	-	-	1	-	-	-

<b>PUBLIC BODIES</b>	<b>3(3)</b>	<b>3(4)</b>	<b>3(8)</b>	<b>4 (1)(a)</b>	<b>4 (1)(b)</b>	<b>4(2)</b>	<b>4(4)</b>	<b>5 (1)</b>	<b>6(a)</b>	<b>6(b)</b>	<b>6(b.1)</b>	<b>6(c)</b>	<b>6(c.1)</b>	<b>6(d)</b>	<b>6(f)</b>	<b>6(f.1)</b>	<b>6(f.3)</b>	<b>6(g)</b>	<b>6(h)</b>	<b>6(h.1)</b>	<b>6(i)</b>
<b>Supply and Services</b>	-	1	-	-	-	1	1	1	2	2	-	1	1	-	3	-	-	1	-	-	-
<b>Tourism and Parks</b>	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-
<b>Transportation</b>	-	2	-	-	-	-	-	-	-	7	-	3	-	-	2	-	-	7	-	-	-
<b>Wellness, Culture and Sport</b>	-	1	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOTALS</b>	<b>14</b>	<b>44</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>28</b>	<b>28</b>	<b>14</b>	<b>31</b>	<b>164</b>	<b>4</b>	<b>23</b>	<b>16</b>	<b>7</b>	<b>25</b>	<b>1</b>	<b>1</b>	<b>46</b>	<b>2</b>	<b>2</b>	<b>2</b>

## Response Times

Under New Brunswick's *Right to Information Act*, a request must be responded to within 30 days of the date it was received by the Minister. The *Act* does not allow for any extensions. In 2009-2010, 49% of the requests received were completed within the 30-day timeframe while 49% required more time to respond. 2% of requests received were either withdrawn or abandoned.



## Response Times - by Public Bodies

<b>PUBLIC BODIES</b>	<b>Within 30 days</b>	<b>30+ days</b>	<b>Withdrawn</b>	<b>TOTAL</b>
<b>Agriculture and Aquaculture</b>	4	1	-	<b>5</b>
<b>Business New Brunswick</b>	5	5	-	<b>10</b>
<b>Education</b>	5	18	1	<b>24</b>
<b>Energy</b>	16	7	0	<b>23</b>
<b>Environment</b>	4	97	1	<b>102</b>
<b>Executive Council Office</b>	6	-	-	<b>6</b>
<b>Finance</b>	16	-	1	<b>17</b>
<b>Fisheries</b>	1	1	-	<b>2</b>
<b>Health</b>	19	14	1	<b>34</b>
<b>Intergovernmental Affairs</b>	3	-	-	<b>3</b>
<b>Justice and Consumer Affairs and Attorney General</b>	14	2	-	<b>16</b>
<b>Local Government</b>	13	3	1	<b>17</b>
<b>Natural Resources</b>	14	1	-	<b>15</b>
<b>Office of Human Resources</b>	-	1	-	<b>1</b>
<b>Post-Secondary Education, Training and Labour</b>	9	8	1	<b>18</b>
<b>Public Safety</b>	26	2	1	<b>29</b>
<b>Social Development</b>	3	3	-	<b>6</b>
<b>Supply and Services</b>	4	8	1	<b>13</b>
<b>Tourism and Parks</b>	-	1	0	<b>1</b>
<b>Transportation</b>	13	6	1	<b>20</b>
<b>Wellness, Culture and Sport</b>	2	-	-	<b>2</b>
<b>Total</b>	<b>177</b>	<b>178</b>	<b>9</b>	<b>364</b>

## Reviews Under the Act

When an applicant is not satisfied with the Minister's response or when a response has not been provided within the prescribed timeframe of 30 days, the applicant may refer the matter to the Ombudsman or the Court of Queen's Bench for review. In 2009-2010, there were eight petitions to the Ombudsman and one court referral.

### 2009 – 2010 Outcomes of Total Reviews

Reviews	Upheld	Partially Reversed	Withdrawn	Active/Outstanding	Total
Ombudsman	1	7	0	0	8
Court	0	0	0	1	1
<b>Total</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>9</b>

### 2009 – 2010 Outcomes of Petitions to the Ombudsman

Public Bodies	Applicant	Topic	Response	Sections of the Act	Outcome
Education	Public	Human Resources	Partially Granted	6(b), 6(b.1), 6(f), 6(g)	Partially Reversed
Education	Law Firms	Educational Services	Partially Granted	6(b), 6(c), 6(f), 6(g)	Partially Reversed
Energy	Media	Lepreau Refurbishment	Partially Granted	6(a), 6(b), 6(c), 6(g)	Partially Reversed
Energy	Media	Lepreau Refurbishment	Partially Granted	6(a), 6(b), 6(c), 6(g)	Partially Reversed
Energy	Media	Marshall/Thompson Report	Partially Granted	6(a), 6(b), 6(g)	Partially Reversed
Energy	Media	Lepreau Refurbishment	Partially Granted	6(a), 6(b), 6(c), 6(g)	Partially Reversed
Environment	Public	Remediation of Property	Partially Granted	6(b)	Upheld
Finance	Law Firms	Property Tax	Partially Granted	6(a)	Partially Reversed