

Privacy Directions

GENERAL

The Labour and Employment Board is an independent administrative body which fulfills quasi-judicial functions.

The Board is the principal vehicle in the Province of New Brunswick for the administration and maintenance of collective bargaining relationships in the public sector, and, generally, for the oversight of industrial conflict processes in the industrial and construction sectors.

The Board at all times remains governed by the principles of natural justice and procedural fairness in the matters that come before it, and operates in an open and accessible manner in the exercise of its quasi-judicial public responsibilities.

Further details on the operations of the Board, its Notices on Practice and Procedure, as well as publications, including Annual Reports, are available on the Board website at www.gnb.ca/LEB-CTE.

As an instrument of the Executive of Government, the Board is mandated to act in accordance with the public policies that have been legislatively assigned for the Board's administration and decision-making. Accordingly, the Board is called upon to be informed of the Province's privacy legislation and policies as applicable to public bodies generally.

PURPOSE OF PRIVACY DIRECTIONS

The intent of these Directions is to inform the public of the Board's collection, use and disclosure of personal information, and to express the purposive balance intended by the Board for the protection of this information, notwithstanding its role as a quasi-judicial tribunal which operates in the public domain.

PERSONAL INFORMATION

The Board collects, uses, and discloses personal information obtained by it under two categories:

Category 1

Personal information about the parties before the Board, and others, as received in applications, replies and documents or in connection with correspondence and regular search requests made to the Board;

Category 2

Personal information about parties, and others, as received in evidence, exhibits, and documents, and as adjudicated upon in the Board's hearing processes.

PRIVACY DIRECTIONS

Category 1

The Board generally provides a copy of every application, reply and document filed with it by one party to the other party or parties in a Board proceeding, unless the confidentiality of the document in question is protected by legislation, as is the case, for example, with evidence respecting membership in a trade union. Aside from Board Orders and Reasons for Decision, the Board does not generally release documents to a third party, and normally will request that a third party requesting a document first seek its release from one of the parties to the matter.

Where the Board deems it necessary in the interest of justice to provide the form and substance of a party's otherwise confidential document to another party, it will obscure personal and identifying information where possible before releasing the document.

Category 2

The collection, use and disclosure of information filed in documents, exhibits, or oral and written evidence provided during a Board hearing, including its release or disclosure in a written decision of the Board, are subject to the following practice and privacy guidelines:

- i) Notice is provided to parties that any information contained in an application, reply or document which is filed with the Board, and any testimony provided in evidence, may be referred to in a decision of the Board, which may also appear online.
- ii) Board hearings are open to the public; however, in exceptional circumstances, the Board may grant a request that a hearing be closed to the public.
- iii) Exhibits that contain sensitive information about any individual may be sealed by order of the Board.
- iv) The identification of persons not directly affected by proceedings may be protected by order of the Board.
- v) The Board will use its discretion to include in decisions only such personal information that is relevant and necessary to the reasons.

- vi) Decisions are not available or searchable on the Board's website; they are only available by subscription from specialized private publishers (e.g., LexisNexis' Quicklaw, eCarswell) or on public websites such as CanLII.

At this time, all online publishers to whom the Board sends its decisions use a "web robot exclusion protocol" which prevents Internet search engines from finding the names of individuals identified in the full text of Board decisions posted on their sites.

BALANCING OPENNESS AND PRIVACY

The Board is satisfied that the measures taken here are reasonable to protect the personal information collected and contained in Board decisions, and are consistent with the *Protocol for the Use of Personal Information in Judgments* approved by the Canadian Judicial Council¹, as well as the protocol adopted by the Heads of Federal Administrative Tribunals². The Board has sought a balance between its role as a quasi-judicial tribunal which very much acts in accordance with the open court principle and a recognition that it should be flexible and responsive to the privacy concerns of the parties who appear before it.

¹ http://www.cjc-ccm.gc.ca/cmslib/general/news_pub_techissues_UseProtocol_2005_en.pdf

² <http://www.hfatf-fptaf.gc.ca/declaration-web-eng.php>