

IDENTIFICATION CODE

PROC10-092

TITLE: DIRECTIVES ON THE PROTECTION OF PERSONAL INFORMATION AND ACCESS TO INFORMATION

ENFORCEMENT DATE	REQUIRED AUTHORIZATION	RESPONSIBLE FOR FOLLOW-UP
November 3 rd , 2010	Administrator	Secretary General

INFORMATION PAGE

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The *Act respecting access to documents held by public bodies and the protection of personal information* (the Act), adopted by Quebec, applies to all public bodies, including the Littoral School Board. The Act is primarily aimed at ensuring the openness of decisions taken by public bodies by giving everyone the right to access some documents while protecting the confidentiality of certain personal information.

This directive deals with the rules that the Littoral School Board must respect with regard to the management of personal information, whether at the time of hiring new employees or when managing the files of current employees or students.

The information contained in this directive is provided solely for guidance and should neither be quoted nor considered as having legal value. It may become obsolete without advanced notice.

Protection of personal information

1. Premises

In order to protect personal information, the Act requires that public bodies meet a number of obligations regarding the collection, conservation and communication of personal information.

1.1 Application

The Littoral School Board (LSB) may not disclose nor allow access to a file containing personal information. This type of information remains confidential and, except in rare instances, it may not be divulged without the consent of the person concerned.

1.2 Definition Of Personal

The term personal information means any information that concerns an individual where such individual is identifiable. The following are examples of types of information, that when linked to an individual, constitute personal information:

- a) name
- b) date of birth
- c) age
- d) personal address and telephone number
- e) social insurance and driver's permit numbers
- f) medical reports and records
- g) curriculum vitae
- h) absence of an employee (and reasons)
- i) dates of an employee's vacations
- j) disciplinary record
- k) performance

Procedure

1A) *Another Example*

When an employee is absent for health reasons, the simple fact of informing a third party who wishes to speak to this employee that the employee is absent because of an illness is communicating personal information. Such information is considered to be confidential since it goes beyond what is simply linked to the duties of an employee. One should only say that the employee is absent, without further comment as to the reason.

2. Exceptions

Under the Act, LSB may disclose personal information pertaining to an individual in the following cases:

- the individual has given consent for disclosure;
- the personal information has public relevancy;
- LSB is authorized to do so by virtue of a law.

2.1 Consent Of Individual

Personal files such as academic, disciplinary, employment and health records, are confidential and, in principle, only the individual to whom they pertain may have access to them.

Any individual may consent to the disclosure of all personal information pertaining to themselves. Such consent should be made in writing, although this is not mandatory. In the case of a student who is a minor, consent may be given by the holder of parental authority, or by the student if aged fourteen or over. Under the collective agreements, employees may, in writing, authorize their union representatives to consult their files.

2.3 Information With Public Relevancy

Some personal information may lose its confidential nature and become accessible to the public. For example:

- with respect to management personnel of LSB:** name, title, duty, classification, salary, address and telephone number at their usual workplace within the LSB, not their personal address and telephone number;
- with respect to other employees of LSB:** name, title, duty, classification, salary scale, address and telephone number at their usual workplace within LSB;
- with respect to a person that is party to a service contract with LSB:** the name of that person as well as the conditions of the service contract with LSB.

2.4 Authorization By Virtue Of A Law

LSB may, without the consent of the concerned individual, disclose personal information to the following people:

- a. a policeman, detective or attorney general mandated to prevent, investigate or repress crimes or violations of the law, if the information is required for purposes of prosecution for violating a law applicable in Quebec;
- b. a person or body responsible for the application of a collective agreement, an order, a by-law, an instruction or regulation that establishes working conditions.

3. Information for hiring purposes

3.1 Request For References

Several departments of LSB are often solicited by third parties for information concerning employees and former employees. Often, these third parties are potential employers who wish to obtain performance, salary and other personal information held by LSB.

The only information that may be disclosed without the consent of the person are those listed in 2.3 a) for management and elected members, and 2.3 b) for all other employees.

3.2 Authorization To Disclose Information

Any other personal information not listed in 2.3 may not be disclosed without the consent of the concerned individual. Consequently, one must ensure that the individual has authorized the third party to communicate with LSB in order to obtain personal information.

4. Consultation of documents

4.1 Access To Documents

Individuals who wish to access or rectify their personal information shall submit a request to the responsible authority designated by LSB.

5. Conservation of documents

5.1 Place Where Files Are Kept

The active personal files of the employees must be kept at the head office of LSB.

5.2 Accuracy

Personal information must be up-to-date, accurate and complete before it is used.

5.3 Disciplinary Measure

Any disciplinary measure that has become obsolete must be taken out of the file.

5.4 Security Of Documents

Adequate security measures must be taken to ensure the confidentiality of information.

5.5 Filing Cabinets

Filing cabinets containing files with personal information must be kept under lock.

5.6 Access

Only personnel working in authorized departments that can justify their need to know such information have access to these files and may consult them. Personnel that has such access must be clearly identified by their title and duties in a personal information file managed by the responsible authority designated by LSB. No one else is automatically entitled to access.

Procedure

5A) Responsible Authority

The Administrator has designated the Associate Secretary-General as the responsible authority for access to information. Consequently, he oversees the application of the law and answers all questions related to same.

Access to information

Any individual or corporate entity may request access to certain documents held by LSB without having to justify who they are or to give a reason for such request. The applicant may or may not be the person to whom the document directly pertains.

6. Premises

6.1 Application

The Act applies to all documents held by LSB, whether in a written, graphic, sound, visual, computerized or other form.

Procedure

6A) Examples Of Documents

Documents such as minutes, adopted financial statements and, once a decision has been taken, the various analysis drafted by employees of the organization or by consultants are accessible to anyone upon request.

7. Exceptions

7.1 Exceptions

The Act allows LSB to refuse access to documents that:

- a) have an impact on intergovernmental relations;
- b) are related to negotiations between public organizations;
- c) are confidential documents related to collective agreement strategies;
- d) are part of a legal opinion on a particular case.

However, the Act requires LSB to refuse access to documents that include the following information:

- a) personal information (see Section 3);
- b) the details of a bid on a call for tender before all bids are submitted.

7.2 Exception For The Holding Elections

The Act provides an exception for LSB during the holding of elections. For example, electoral lists of that would otherwise constitute personal information are not subject to the law.

7.3 Students' Files

Students' files include personal information and access to such information is restricted to expressly authorized personnel of LSB, to personnel holding parental authority and to investigators working for the Human Rights Commission and the Youth Protection Commission of Quebec.

Members of a CLSC and other interveners are not entitled to consult a student's file unless authorized by a student entitled to give consent or by the holder of parental authority.

7.4 Blocked Out Information

The information contained in a document that permits the identification of a person other than the applicant, is confidential. It must be blocked out before any one is given access to the document.

8. Application of this directive

8.1 Previous Provisions

The present directive replaces all other directives of the Board pertaining to this subject, while respecting the policies adopted by the Littoral School Board where applicable. If such policies are adopted, the provisions of these policies will be integrated into this directive for the benefit of the reader.

8.2 Responsibility

The Associate Secretary-General of LSB is the person responsible for the application of this directive.