



INFORMATION CIRCULAR

The following is one in a series of information circulars prepared by the administration staff of the CIRB. The circulars are designed to provide employees, trade unions and employers with general information and a clearer understanding of Board processes. This information circular is an informal tool and is not binding on the Board.

No. 12–Policy on Openness and Privacy

I. General Policy

The Canada Industrial Relations Board (CIRB or Board) is an independent, representational, quasi-judicial tribunal responsible for the interpretation and application of the *Canada Labour Code* (Code). The CIRB is also responsible for the interpretation and administration of Part II (Professional Relations) of the *Status of the Artist Act*.

The CIRB's mandate is two-fold, and its objectives are:

1. to support constructive labour-management relations in the sectors regulated by Part I of the Code;
2. to contribute to Canada's cultural community by encouraging constructive professional relations between artists and producers in the federal jurisdiction.

This document explains the CIRB's policy on the openness of its processes and describes how the CIRB handles issues relating to privacy.

The open court principle plays an important role in our justice system. In accordance with this constitutionally protected principle, the CIRB conducts its hearings in public, save for exceptional circumstances. Given the CIRB's mandate and the nature of its proceedings, the CIRB maintains an open court policy to foster transparency in its processes, accountability and fairness in its proceedings.

The [CIRB's website](#) and [Information Circular No. 04](#) advise parties and the community that hearings and case files are open to the public. Parties that engage the CIRB's services should be aware that they are participating in a public process, which includes the creation of a public record and the public dissemination of decisions. Parties and witnesses are subject to public scrutiny when giving evidence before the CIRB. In general, CIRB decisions identify parties and witnesses by name and may set out information about them that is relevant and necessary to the determination of the dispute.

The Board acknowledges that in some instances mentioning an individual's personal information during a hearing or in a written decision may have a significant impact on that person's life. Privacy concerns arise most frequently when identifying aspects of a person's

personal life become public. These include information about an individual's home address, personal email address, personal phone number, date of birth, financial details, social insurance number (SIN), driver's licence number, credit card or passport details as well as specific medical information. The CIRB endeavours to include such information in a written decision only to the extent that is relevant and necessary for the determination of the dispute.

The Board provides access to case files to the parties and to members of the public in a manner that balances the open court principle, the rights and interest of the public and participants to the proceedings, and the objectives of the *Code*.

The CIRB's policy is consistent with the [statement](http://www.hfatf-fptaf.gc.ca/declaration-en.php) (<http://www.hfatf-fptaf.gc.ca/declaration-en.php>) of the Heads of Federal Administrative Tribunals Forum (endorsed by the Council of Canadian Administrative Tribunals) and the principles found in the [Protocol for the Use of Personal Information in Judgments](http://cjc-ccm.gc.ca/cmslib/general/news_pub_techissues_UseProtocol_2005_en.pdf) (http://cjc-ccm.gc.ca/cmslib/general/news_pub_techissues_UseProtocol_2005_en.pdf) approved by the Canadian Judicial Council.

II. Exceptions

In exceptional circumstances, the CIRB departs from its general policy in order to address concerns relating to the confidentiality of certain documents or information. Below are some examples.

A. Confidential Documents

At the request of a party to a proceeding or on its own motion, the Board may make specific orders to ensure that the confidentiality and non disclosure of sensitive information. A party to a proceeding before the Board who is concerned with the disclosure of sensitive commercial or personal information (e.g. disciplinary record, medical or financial information) may request a confidentiality order from the Board in accordance with section 22 of the *Canada Industrial Relations Board Regulations, 2012* (the *Regulations*). If the Board is of the view that it should take steps to protect the information, it may make the following orders:

- that a hearing be held in-camera (in private)
- that documents be sealed and not put on the public record
- that documents not be disclosed to any person other than specific individuals
- that certain information be redacted from a documents, or
- any other order that it considers appropriate in the circumstances of each case

B. Board Members' Notes

Notes and draft orders or decisions of the Board and of its members are not accessible pursuant to section 119.1(a) of the *Code* and will not be disclosed.

C. Mediation Sessions

The Board's Industrial Relations Officers and representative members may hold discussions and mediation sessions with parties to support and facilitate the settlement of disputes at any stage of the proceeding. This process takes place in private and mediation discussions are confidential in order to foster open discussion between the parties. Documents exchanged during the mediation process do not form part of the public record and are not accessible to the

public. In addition, any notes or documents prepared by the Industrial Relations Officers of the Board during the mediation process are protected by section 119.1(b) of the *Code* and will not be disclosed.

D. Membership Evidence

The Board does not disclose evidence that could reveal membership in a trade union, opposition to the certification of a trade union, or the wish of any employee to be represented, or not to be represented, by a trade union, unless the disclosure would further the objectives of the *Code*. This information is kept confidential and does not form part of the public record pursuant to section 35 of the *Regulations*.

III. Access to Case Files by the Public

The Board provides access to case files to the public in a manner that balances the open court principle, the rights and interest of the public and participants to the proceedings, and the objectives of the *Code*.

With appropriate notice, case files can be consulted by the public at one of the CIRB's offices. However, information such as an individual's home address, personal email address, personal phone number, date of birth, financial details, SIN, driver's licence number, credit card or passport details will be redacted prior to the consultation.

It should be noted that parties to a matter before the Board are entitled to use English or French in communications with the Board. Therefore, documents contained in case files may be in English or French. These documents can be accessed in the language in which they appear in the case file.

To ensure the proper administration of the Board's adjudication process, exhibits that are filed in the course of an oral hearing will only be made available to the public once the decision on the merits of the case has been rendered or the Board has closed its case file.

In addition, documents and information that fall within the exceptions discussed above and information protected by solicitor-client privilege are excluded from the public record and are not available for consultation.

IV. Access to Decisions by the Public

The CIRB provides public access to its decisions in accordance with the open court principle.

Reasons for decision and certain orders issued by the CIRB since 1999 are available in electronic format on the Board's website.

In addition to reasons for decision and orders, the Board issues letter decisions where jurisprudential interest is more limited. These decisions are available on request.

The public is invited to communicate with the Board in order to obtain a copy of a particular order or letter decision or to consult the website.

In an effort to establish a balance between public access to its decisions and privacy concerns, the Board has taken measures to prevent Internet searches of full-text versions of decisions

posted on its website. This was accomplished using the “web robot exclusion protocol,” which is recognized by search engines (for example, Google and Yahoo). As a result, an Internet search of a person’s full name mentioned in a decision of the Board will not yield information from the full-text version of decisions posted on the CIRB website.

It is also possible to access reasons for decision rendered by the Board on other websites such as [Government of Canada Publications](#), [CanLII](#), and [LexisNexis Quicklaw](#). However, the CIRB does not have control over the actions taken by these website publishers regarding the protection of individuals’ privacy.

V. Disposition of Case Files

Board case files are disposed of in accordance with the retention and disposition schedule approved by the Librarian and Archivist of Canada.

Please [communicate with us](#) if you have any questions about this policy.

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