

PRIVACY AND ANONYMIZATION POLICY

SCOPE OF POLICY

This policy describes the information the Employment Standards Tribunal (the “Tribunal”) collects in proceedings under the *Employment Standards Act* (the “ESA”) and the *Temporary Foreign Worker Protection Act* (the “TFWPA”), how the information is used, and what information the public has access to.

The Tribunal will identify names and relevant personal information in its published decisions. In exceptional circumstances, the Tribunal may exercise its discretion to change a person’s name (anonymize), or to omit certain personal information, where the harm to a person’s privacy or security interest outweighs the public interest in transparency, accountability, and intelligibility of Tribunal decisions.

This policy describes how you can identify the harm to your privacy and security interests you feel will occur if your name or specific personal information is included in a published decision or disclosed to parties to the appeal or application for reconsideration.

INFORMATION WE COLLECT

Submissions to the Tribunal may contain a wide variety of information in relation to appeals and application for reconsiderations made under the *ESA* and *TFWPA*, including:

- contact information for parties and their representatives, including names, addresses, telephone numbers, fax numbers, and email addresses;
- copies of the record before the Director at the time the Determination was made;
- appeals, applications for reconsiderations, responses, and supporting documents provided by parties including personal information such as health information, financial records, and employment information and circumstances; and
- information about witnesses, including their contact information and evidence they might be called upon to provide.

The Tribunal may also collect and use contact information to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act* (the “ATA”).

INFORMATION IS SHARED WITH THE PARTIES

The information obtained in a Tribunal appeal or application for reconsideration may be shared with the parties to the matter, except for certain personal identity information such as Social Insurance Numbers where appropriate.

Documents and submissions obtained in relation to a Tribunal appeal or application for reconsideration are not made available to a party who is not a party to the matter without a request made pursuant to the *Freedom of Information and Protection of Privacy Act* (“FOIPPA”).

PUBLICATION OF DECISIONS

The Tribunal makes its decisions in proceedings under the *ESA* available in writing for publication (*ESA*, s. 103, *Administrative Tribunals Act* (the “ATA”), s. 51). The Tribunal publishes its decisions on its website: www.bcest.bc.ca

Tribunal decisions are not covered by the *Freedom of Information and Protection of Privacy Act* (“FOIPPA”) (Act, s. 103; ATA, ss. 61(2)(f)). However, the Tribunal has taken steps to prevent the decisions on its website from being accessed by internet search engines such as Google.

SETTLEMENT DISCUSSIONS / MEDIATION

Settlement discussions and mediation facilitated through the Tribunal are confidential, unless the parties agree otherwise, or if disclosure is required by law.

INFORMATION RETENTION

Information collected or created by the Tribunal in relation to proceedings before the Tribunal is maintained in accordance with the Tribunal’s retention schedules and other legislative requirements.

SAFEGUARDS TO PROTECT PERSONAL INFORMATION

The Tribunal is obligated to protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal. Specifically, access to systems, applications and the collected data is restricted to authorized personnel only.

ANONYMIZING / OMITTING PERSONAL INFORMATION IN A DECISION

The Tribunal identifies names and relevant personal information in its published decisions.

In exceptional circumstances, the Tribunal may exercise its discretion to change a person’s name so that person cannot be identified (anonymize) or to leave out certain personal information, where the harm to a person’s privacy or security outweighs the public interest in transparency, accountability, and

intelligibility of Tribunal decisions. The decision to anonymize is at the sole discretion of the panel assigned to the proceeding.

It is not enough for a person to want to remain anonymous or to avoid embarrassment. In exercising its discretion, the Tribunal will consider whether the nature of the privacy or other interest you identify outweighs the public interest in transparency, accountability, and intelligibility of its decisions.

If you wish to request that your name be anonymized or certain information be omitted from a decision, you must:

- (1) if you are the appellant or applicant, make a separate request in writing to the Registrar at registrar@bcest.bc.ca at the same time you file your appeal or application for reconsideration with the Tribunal

or

if you are another party to the appeal or application for reconsideration, make a separate request in writing to the Registrar at registrar@bcest.bc.ca, within 5 business days of receiving notice of the appeal or application for reconsideration or of the date the information was submitted to the Tribunal by another party;

- (2) identify whether you want your name anonymized and/or want certain information omitted from the decision;
- (3) identify the specific information or circumstances you want omitted from the decision;
and
- (4) explain how a decision identifying you by name, or including certain information, would be harmful to your privacy or security interests and why.

ACCESS TO INFORMATION REQUESTS

A person can make a request for access to information from the Tribunal under the *FOIPPA*. The request must be made in writing to the Tribunal's Registrar at registrar@bcest.bc.ca.

REQUEST FURTHER INFORMATION ABOUT THIS POLICY

If you have questions about this policy, or if you have concerns about a specific situation, or want to make a complaint about a breach of privacy, you can contact the Tribunal's Registrar at registrar@bcest.bc.ca. If you are unable to e-mail, you may also contact the Registrar by mail.