



Cree School Board  
Commission scolaire crie

## Administrative Policy and Procedures on the Access to Information and the Protection of Personal Information

**Department responsible:** Secretary General

**Effective date:** September 30, 2004

**Approved by:** Director General

**References:**

Council of Commissioners / Policy -  
Resolution #2004-077

- An Act respecting access to documents held by public bodies and the protection of personal information (L.R.Q., c. A-2.1);
- Québec Charter of Human Rights and Freedoms L.R.Q., Chapter C-12, art. 5 and 9;

Web resources

[www.cai.gouv.qc.ca](http://www.cai.gouv.qc.ca)

The Cree School Board as well as all the public sector, departments, government organizations, municipalities and establishments of the health and social services network is subject to the “*Act respecting access to documents held by public bodies and the protection of personal information*”.

This Act includes two parts: the first part guarantees everyone the right of access to documents held by public bodies. The second part is intended to provide maximum protection to personal information held by the public administration. This second part of the Act also recognizes every citizen's right of access to and correction of his or her personal information.

The Commission d'accès à l'information is responsible for the enforcement of the Act respecting Access to documents held by public bodies and the Protection of personal information

This Administrative Policy is a summary for informational purposes only and should not be considered legal advice.

## **PART I / Access to information**

### **1) General provisions**

[Right](#) 1.1. Every person has a right of access, on request, to the documents held by a public body.

[Application](#) 1.2. The Act applies to all documents held by the Board, whether the documents are recorded in writing or print, on sound tape or film, in computerized form, or otherwise. However, the right does not extend to personal notes written on a document or to sketches, outlines, drafts, preliminary notes or other documents of the same nature.

### **2) Exceptions**

[Type of information](#) 2.1. The Act lists the categories of exceptions that restrict the right of access to certain information. The Board may refuse access to documents, but is not obliged to, when the information is affecting:

- a) intergovernmental relations;
- b) negotiations between public bodies;
- c) the economy, the administration of justice and public security;
- d) administrative or political decisions;
- e) auditing;

Further more, the Board may refuse to disclose:

- f) a study if its disclosure might well affect the outcome of judicial proceedings;
- g) a recommendation or opinion presented less than ten years earlier, and obtained from one of its members, a member of its personnel, a member of another public body or a member of the personnel of the other public body, in the discharge of his duties.
- h) a recommendation or opinion presented, at its request, by a consultant or an adviser less than ten years earlier on a matter within its jurisdiction.

These restrictions are optional and it is unlikely that access to an entire document will be refused. Only information falling into one of the five listed categories will be removed, and access may still be granted to other parts of the document.

[Personal information](#) 2.2. Information that could be used to identify a person other than the applicant is confidential and access is always forbidden (*see Part II on "Personal information"*).

[Students' files](#) 2.3. Students' files include personal information and access to such information is restricted to expressly authorized personnel of the Board, to the holder of parental authority and to investigators working for the Human Rights Commission and the Youth Protection Commission of Quebec.

Any other person or entity such as the Health Services are not entitled to have access to a student's file unless authorized by a student entitled to give consent or by the holder of parental authority.

### **3) Procedure**

#### Request

**3.1.** A request for access to a document must be sent to the Board' Head office to the Secretary General. The request must be sufficiently detailed to allow the document in question to be identified and located. The right of access only applies to documents that can be released without requiring computation or comparison of information.

#### Delay

**3.2.** The person in charge of access has 20 calendar days to answer a request. However, a 10-day extension may be granted, where necessary.

#### Consultation

**3.3.** The right of access to a document may be exercised by examining it on the premises during regular working hours.

#### Fees

**3.4.** Access to documents is free but the Board may charge a fee not exceeding the cost of transcribing, transmitting or copying the document requested, and must inform the applicant of the approximate amount of the fee before proceeding.

## **PART II / Protection of Personal Information**

### **4) Application**

#### Definitions

**4.1.** 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 (when accompanied with other Personal information leading to the identification of the person);
- 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.

#### Act

**4.2.** Under the Act, the Board must ensure the confidentiality of all personal information collected, held, used or communicated. Personal information remains confidential, and cannot be communicated without the consent of the person concerned or without a specific authorization ensuing from the law.

#### Consent to disclosure

**4.3.** Any individual may consent to the disclosure of all personal information pertaining to him. 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.

[Disclosure / by law](#)

**4.4.** The Board may release personal information without the consent of the person concerned in the following cases and strictly on the following conditions:

- a) to the attorney of the Board if the information is required for purposes of judicial proceedings;
- b) to a person responsible by law for the prevention, detection or repression of crime or statutory offences, if the information is required for the purposes of a prosecution for an offence against an Act applicable in Québec;
- c) to a person to whom the information must be disclosed because of the urgency of a situation that threatens the life, health or safety of the person concerned;
- d) to a person authorized by the Commission d'accès à l'information, in accordance with the Act, to use the information for study, research or statistics purposes;

Further more, the Board may without the consent of the person concerned:

- e) release personal information to any person or body if the information is necessary for the carrying out of a collective agreement, order, directive or regulation establishing conditions of employment.

[Information given to other employers](#)

**4.5.** Other employers or organizations often seek for references on the Board's employees, former employees, consultants or elected members namely to obtain information on the performance, salary and other personal information. The only information that may be disclosed without the consent of the person is:

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

## **5) Additional protection / the Charter of rights and freedoms and the Professional secrecy**

### Charters

**5.1.** Article 5 of the Quebec Charter of Rights and Freedoms recognizes that every person has a right to respect for his private life. This right imposes to everybody (individual or organization) the general obligation of discretion, whether or not they are bound by the Professional secrecy. Private life includes, family life, health, resources, image, reputation, sentimental life, etc. Therefore all employees of the Board shall carefully respect this obligation in their communications.

### Professional secrecy

**5.2.** In addition to the general obligation of discretion as described above, the professionals members of a professional corporation such as the nurse, psychologist, etc. are bound by the professional secrecy as stated in article 9 of the Charter. Therefore, the professional may not disclose any information received in the course of his activities unless expressly authorized by the concerned individual.

Two different situations may occur:

- a) when the professional is directly solicited by a student or his parents for a consultation, the professional secrecy applies. Any information received during such consultation remains confidential and is kept in the confidential files of the professional.

However,

- b) when the professional has been mandated by the Board to conduct a study or to do an intervention in order for the Board to fulfil its mandate as required by the Education Act, only the information necessary to the Board is to be transmitted. Any other private conversation or notes remain in the professional's files.

## **6) Conservation of Personal information**

### Active personal file / employee

**6.1.** The active personal files of the employees must be kept at the head office of the Board.

### Outdated information

**6.2.** The Board must see to it that the personal information kept by it is up to date, accurate and complete so as to serve the purposes for which it is collected.

### Storage

**6.3.** Adequate security measures must be taken to ensure the confidentiality of information. Filing cabinets containing files with personal information must be kept under lock.

The Board's computers providing access to personal information should require users to have a password to log on and such password should be changed regularly.

[Access to the files](#)

**6.4.** Only personnel working in authorized departments that can justify their need to know such information has 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 the Board. No one else is automatically entitled to access.

## **7) Use of Electronic mail and fax to send Personal information**

Unless otherwise necessary or urgent, personal information should not be sent by fax or electronic mail.

[Fax / location and access](#)

**7.1.** Security measures must be taken to protect the confidentiality of documents transmitted by fax. The fax machine should be located in a supervised area where the public has no access and be used only by authorized personnel.

[Fax / transmission](#)

**7.2.** When Personal information is transmitted by fax, the following rules shall be applied:

- a) the document shall clearly indicate its confidential character;
- b) the recipient shall be notified of the time of transmission and be there to receive it;
- c) a confirmation of the reception of the document shall be obtained from the recipient.

[E-mail / transmission](#)

**7.3.** When Personal information is transmitted by e-mail, the use of encryption software is recommended to protect a message's confidential data. This kind of software encodes the contents of the message, making it illegible and difficult to decipher.

## **8) Destruction of documents that contain personal information**

[Archives](#)

**8.1.** When the object for which the personal information was collected has been achieved, the Board shall destroy the document, subject to the Archives Act (chapter A-21.1). The calendar of conservation as adopted by the Board must be followed to ensure that a document may legally be destroyed.

[Methods](#)

**8.2.** Shredding remains the best method of destroying confidential documents, which shall never be put in regular disposal containers without appropriate measures. If the volume of documents to be destroyed makes it impossible to handle, they must be stored under lock and key before they are entrusted to a paper disposal company. However, the calendar of conservation of the Board must be followed to ensure that a document may legally be destroyed.

## **9) Application of this Administrative Policy**

[Previous provisions](#)

**9.1.** The present Administrative Policy replaces all other Administrative Policies of the Board pertaining to this subject, while respecting the Council of Commissioners Policies where applicable. If the Council adopts such Policies, the provisions of these Policies will be integrated into this Administrative Policy for the benefit of the reader.

[Responsibility](#)

**9.2.** The Secretary General is the person responsible for the application of this Administrative Policy.