
Privacy and Access to Information

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| Policy Number: | 4139 |
| Key Process Area: | Employee Engagement & Culture |
| Owner: | VP FA |
| Current Approved Date: | March 25, 2021 |

POLICY STATEMENT

New Brunswick Community College (NBCC) is committed to protecting the personal information and personal health information that is collected, used, disclosed, and maintained, and to upholding the privacy rights of all individuals whose personal information and/or personal health information is held or controlled by the College. NBCC will comply with all applicable privacy laws and regulations in the Province of New Brunswick and will consider the spirit and intent of those laws when making business decisions. The College will be open, transparent, and accountable in accepting and responding to requests for records in accordance with right to information legislation.

PURPOSE

The purpose of this policy is to:

- ensure NBCC fulfills its legal obligations by complying with all applicable privacy and access legislation(s);
- outline the roles and responsibilities of NBCC in relation to access to information and the protection of personal privacy; and
- promote, strengthen, and ensure accountability and compliance with information management within the organization.

SCOPE AND LIMITATIONS

This policy applies to all employees of NBCC, as well as volunteers, contractors, fee for service individuals, clients, and students participating in work practicums.

1.0 DEFINITIONS

Access

Any person is entitled to request and receive information related to NBCC's business; have access to records containing personal information about themselves; or request corrections to records containing personal information about themselves in the custody and control of NBCC in accordance with the provisions of the Right to Information and Protection of Privacy Act (RTIPPA).

Personal Information

Recorded information about an identifiable individual, views or opinions expressed about the individual by another person, including, but not limited to the individual's:

- name, home address or electronic mail address, or personal telephone number
- age, gender, sexual orientation, marital status, or family status
- ancestry, race, colour, nationality or national or ethnic origin
- religion or creed or religious belief, association, or activity
- personal health information
- blood type, fingerprints, or other hereditary characteristics

- g) political beliefs
- h) past or current education, employment, or occupation
- i) source of income or financial circumstances, activities, or history
- j) criminal history, including regulatory offenses
- k) personal views or opinions, except if they are about another person
- l) number, symbol, or other assigned identifying particulars

Personal Health Information (further defined as)

Identifying information about an individual in oral or recorded form if the information relates to the individual's:

- a) physical or mental health, family history or health care history, including genetic information about the individual
- b) registration information, including their Medicare number
- c) provision of health care
- c) donations of any body part or bodily substance
- d) health care provider or substitute decision-maker's identity
- e) information about payments or eligibility for health care

2.0 IMPLEMENTATION

2.1 Collecting Personal and Personal Health Information

2.1.1 Personal and Personal Health information may be collected by NBCC or on NBCC's behalf when:

- a) the collection is authorized or required by or under an Act of the Legislature of New Brunswick or an Act of the Parliament of Canada;
- b) the personal and personal health information relates directly to and is necessary for an existing program or activity of the College; or
- c) the personal and personal health information is collected for law enforcement purposes.

2.1.2 Before collecting personal and personal health information, the College must provide the individual with a written notice outlining:

- a) the purpose(s) for which the information is being collected (e.g. principally how the information is intended to be used);
- b) NBCC's legal authority to collect the information (which may be provided by Right to Information and Protection of Privacy Act (RTIPPA), Personal Health Information Privacy and Access Act (PHIPAA) and/or other laws with which the College must comply, such as Personal Information and Protection of Electronic Documents Act (PIPEDA), where personal information crosses provincial or national borders); and
- c) the title, business address and telephone number of an NBCC employee who can answer questions about the collection (e.g. why the information is being collected and how it will be used).

2.2 Using and Disclosing Personal and Personal Health Information

- 2.2.1 Personal and personal health information may only be used, disclosed, and shared for the purpose for which it was collected, or for purpose(s) reasonably connected to the original purpose.
- 2.2.2 NBCC must obtain prior consent from individuals before using or disclosing their personal or personal health information for any purpose other than originally stated, unless the use or disclosure is otherwise permitted or required by law (without consent – by RTIPPA exemption).
- 2.2.3 NBCC will use or disclose only the minimum amount of personal and personal health information required for the immediate, valid purpose, and grant access to and share personal and personal health information only to the extent needed to fulfill that purpose.

2.3 Retention and Destruction of Personal and Personal Health Information

- 2.3.1 Retention and destruction of records containing personal and personal health information will be in accordance with NBCC policy, including established minimum and maximum retention periods, timely and secure destruction of the personal and personal health information.

2.4 Safeguarding Personal and Personal Health Information

- 2.4.1 Personal and personal health information must be protected using physical controls, technological tools, and well-trained staff to safeguard the sensitivity of the information, protecting against loss or theft and unauthorized access, use, disclosure, modification, or destruction.
- 2.4.2 Personal and personal health information breach whereby information is stolen, lost or accessed by, or disclosed to unauthorized persons must be reported immediately to the individual's supervisor who will advise the Vice President responsible for Human Resources Development or their designate (VP), who is accountable to investigate every reported alleged privacy breach and keep a registry of such alleged breaches on behalf of the College. Upon investigation, a privacy breach identified by the VP as having the potential to cause "significant harm," as defined in RTIPPA, shall be reported by the VP to the Access to Information and Privacy Commissioner.
- 2.4.3 Personal and personal health information that crosses provincial or national borders must be vetted through the VP prior to any business activity to ensure data privacy as per *Personal Information Protection and Electronic Documents Act* (PIPEDA). Crosses includes transferred, accessed, processed, stored, maintained.
- 2.4.4. The College's Information Practices are further detailed in Enterprise Classification Plan (ECP) for Information Management, which stipulate explicit protocols for specific data, including access rights, security, and retention timelines.

2.5 Accuracy and Access to Personal and Personal Health Information

- 2.5.1 Individuals may challenge the accuracy and completeness of the personal and personal health information that has been collected and may make a request to have it corrected by notification to the VP.
- 2.5.2 Individuals are entitled to request access to their personal and personal health information and to examine or receive a copy of personal information maintained by NBCC, subject only to limited exceptions as outlined in RTIPPA and where applicable, PHIPAA by notification to the VP.
- 2.5.3 When access is denied, the individual will be provided with the reasons for denying access and informed of the right to complain about the College's decision to the Access to Information and Privacy Commissioner or refer the matter to the court.

2.6 Complaints

- 2.6.1 Any individual may challenge NBCC's compliance with relevant access and privacy legislation by submitting a complaint to the VP in writing or by voicing a verbal concern.
- 2.6.2 All complaints shall be investigated by the VP, who will ensure an investigation is conducted, and provide the complainant with the outcome of the investigation in a timely manner.

2.7 Access to NBCC Records

- 2.7.1 All right to information requests must be made in writing to the VP who will direct a search and inform the applicant within 30 business days after a completed request has been received by NBCC whether the recorded information is eligible for release. Note: RTIPPA does provide certain exemptions to disclosure and timeline extensions, which may be applicable.
- 2.7.2 If the records are not eligible for release, the applicant has the right to appeal NBCC's decision to the Access to Information and Privacy Commissioner or to the Court of Queen's Bench.

2.8 Roles and Responsibilities

2.8.1 Employees of NBCC including volunteers, contractors, fee for service individuals, clients, and students participating in work practicums

Are required to:

- a) know and understand their obligations under this policy.
- b) respect the confidentiality of personal information at all times.
- c) make reasonable efforts to ensure personal and personal health information is appropriately safeguarded.
- d) immediately report any breaches of privacy to their immediate supervisor/manager.
- e) maintain records in a manner consistent with this policy and the information management procedures established by NBCC.

- f) advise supervisor/manager of requests to access information related to NBCC's business which may not be publicly available; access to records containing personal and personal health information; or request corrections to records containing personal and personal health information.

2.8.2 NBCC Supervisors/Managers and those overseeing volunteers, contractors, fee for service individuals, clients, and students participating in work practicums

In addition to the responsibilities noted above, are required to:

- a) ensure their staff are aware of this policy and any related procedures.
- b) hold staff accountable for compliance with this policy as part of their employment duties.
- c) notify new staff about the existence of this policy and related procedures.
- d) create and revise related access and privacy guidelines or procedures in consultation with the VP for their program area as required.
- e) make every reasonable effort to assist the VP in responding to requests for NBCC records in a timely and complete manner.
- f) make reasonable security arrangements for personal and personal health information in the custody and control of their program area or department, including personal information managed by external service providers.

2.8.3 President and Chief Executive Officer

As the head of a public body under Right to Information and Protection of Privacy Act (RTIPPA) and Personal Health Information Privacy and Access Act (PHIPAA), the President and CEO, along with the responsibilities noted above, is ultimately accountable for the proper application of privacy legislation and policies on the College's records and operations.

2.8.4 Vice President responsible for Human Resources Development or their designate (VP)

The Vice President is responsible for:

- a) providing advice and guidance to the Board of Governors, Senior Executive Team, supervisors/managers, and employees with respect to the treatment of personal and personal health information and management of records within NBCC.
- b) receiving, reviewing, and coordinating responses to right to information requests with the consultation of legal counsel when necessary, within the timelines required by legislation.
- c) identifying, documenting, communicating, and consulting on policy, standards and best practices related to the management of records and personal and personal health information.
- d) communicating with applicants, third parties, and the Access to Information and Protection of Privacy Commissioner regarding all access and privacy matters.
- e) serving as the contact person for all public access or privacy inquiries.
- f) monitoring and reporting on NBCC's compliance with this policy.

3.0 OTHER RELATED DOCUMENTS

Archives Act (S.N.B. 1977, c. A-11.1)

Canada's Anti-Spam Legislation

Enterprise Classification Plan (ECP) for Information Management (5306.5097)

Legal Hold Flowchart (5306.5104)

NBCC Information Security Data Classification Guidelines (5306.5278)

Personal Health Information Privacy and Access Act (PHIPAA)

Right to Information and Protection of Privacy Act (RTIPPA)