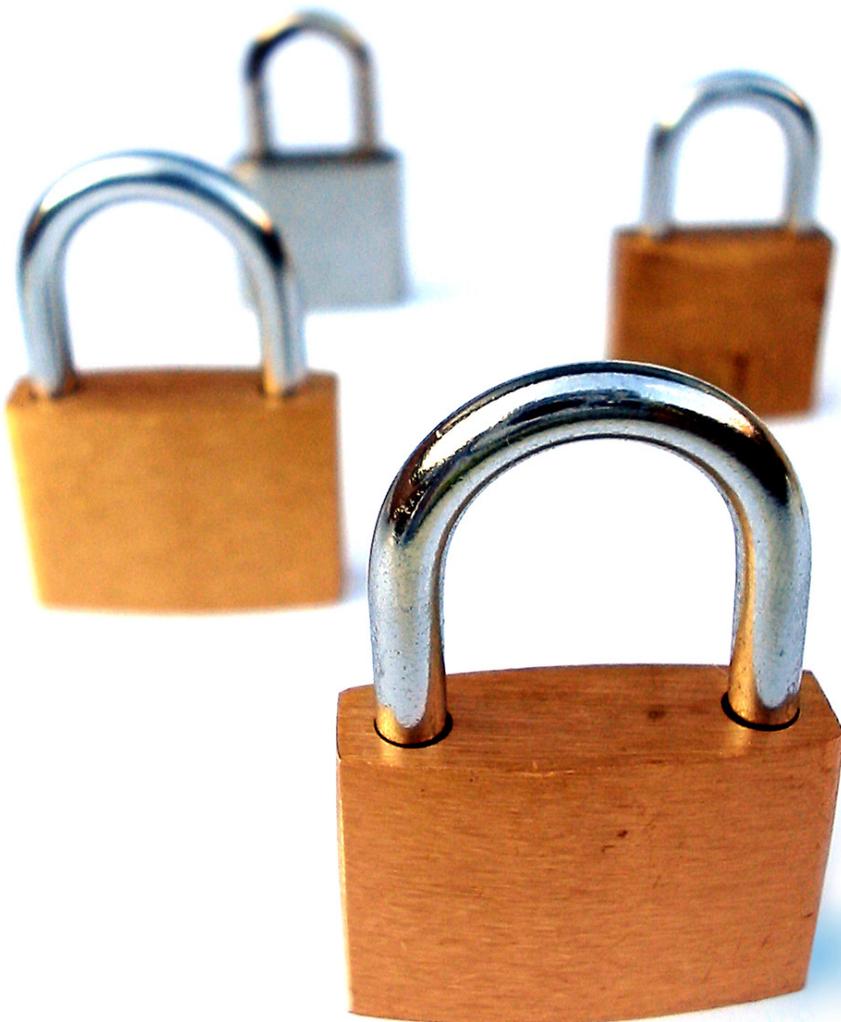


Protecting employee and customer privacy

A how-to guide for organizations in the private sector on how to comply with privacy laws and protect personal information



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Introduction

Privacy laws—especially private sector privacy laws—have changed the way Canadian companies do business. Most organizations collect personal information, whether it is information about employees required by law, or information about customers and clients for commercial purposes. The way an organization treats the privacy of its employees and customers will affect its reputation, consumer confidence, employee morale and turnover. It will also affect an organization's risk of exposure to legal action.

Protecting the privacy rights of individuals is no longer a choice. All organizations engaged in commercial activities that collect, use and disclose personal information about customers and employees have to comply with the federal **Personal Information Protection and Electronic Documents Act (PIPEDA)**, unless they are located in a province that has enacted private sector privacy legislation that has been deemed substantially similar to PIPEDA. As of today, only Alberta, British Columbia and Quebec have substantially similar private sector privacy legislation. In 2013, Manitoba has enacted private sector privacy legislation but it is not yet in force and has not been declared to be similar to PIPEDA.

Organizations are required to obtain consent from individuals whose personal information they gather and use for commercial purposes. This requirement applies not only to information used in connection with a transaction, but also to employee information collected on an application form at the time of hire and during the employment relationship.

In addition, the law requires organizations to provide comprehensive information about their privacy practices and procedures by adopting corporate privacy policies and making them

available to the public and their employees. The law further requires the organization to appoint an individual (or individuals) to be responsible for the organization's compliance and commitment to privacy.

No matter what your business, it is probably affected by the Personal Information Protection and Electronic Documents Act (PIPEDA) and any provincial privacy legislation in place ... First Reference can help you understand the requirements of privacy laws, define a corporate privacy strategy, and prepare and adopt policies and procedures that ensure organizational compliance

An organization is responsible for the protection and fair handling of personal information at all times, throughout the organization, and in dealings with third parties. Care in collecting, using and disclosing personal information is essential to continued consumer confidence and goodwill.

The 10 principles that businesses must follow are:

- Accountability
- Identifying purposes
- Consent
- Limiting collection
- Limiting use, disclosure and retention
- Accuracy
- Safeguards
- Openness
- Individual access

Challenging compliance

The best way organizations can ensure they are protecting individual privacy rights is to implement a privacy program. This document is aimed primarily at providing information on privacy issues related to the employment relationship; however, it does help organizations deal with customer privacy as well. Employers need to know and understand the requirements of both the federal and provincial Acts, and must ensure compliance by creating policies that comply with whichever Act is most stringent in relation to the collection, use and disclosure of personal information. As it stands, PIPEDA is considered to be the most stringent of all the Acts, where employee information is concerned.

First Reference responds

First Reference Inc. can help you understand the requirements of privacy laws, and assist you in defining a corporate privacy strategy and preparing and adopting policies and procedures that ensure organizational compliance. No matter what your business, your organization is likely affected by the **Personal Information Protection and Electronic Documents Act**, or any provincial privacy legislation in place, as well as individual privacy rights.

The best way to ensure individual privacy rights are protected is to implement a privacy program

About the authors

Yosie Saint-Cyr, LLB, was called to the Quebec bar in 1988 and is still a member in good standing. She practised business, employment and labour law until 1999. For over 15 years, Yosie has been the Managing Editor of the Human Resources and

Compliance Collection from First Reference and is also the managing editor of Accessibility Standards PolicyPro. She also contributes regularly to Slaw, Canada's online legal magazine, CanLII Connects and manages the Human Resources Professional Association's (HRPA) monthly member e-newsletter, ELAW. Yosie is one of Canada's best known and most respected HR authors, with an extensive background in employment and labour law across the country.

What does private sector privacy consist of?

In general, privacy legislation helps protect the personal information of customers and employees of organizations operating across Canada, as well as the information of the public at large. Essentially, it establishes rules for handling personal information.

The federal **Personal Information Protection and Electronic Documents Act**, the **Alberta Personal Information Protection Act** (APIPA), the **British Columbia Personal Information Protection Act** (BCPIPA), **Quebec's Act Respecting the Protection of Personal Information in the Private Sector** (QPPIPS) and Manitoba's **Personal Information Protection and Identity Theft Prevention Act** (PIPITPA)- all share the same explicit purpose:

To govern the collection, use and disclosure of personal information by private sector organizations in a manner that recognizes both the right of the individual to have his or her personal information protected and the need of organizations to collect, use and disclose personal information for purposes that a reasonable person would consider appropriate.