

**ACCESS & PRIVACY CODE
ELECTRICAL SAFETY AUTHORITY**

PURPOSE

To establish a policy regarding public access to records in the custody and control of the ESA, the protection of personal information, and effective and timely procedural remedies. To comply with section 10(2) of the Agreement.

DEFINITIONS

In this Code:

- Agreement* means the Agreement entered into between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Consumer Services (currently the Minister of Government and Consumer Services) and the Electrical Safety Authority in 2013, as amended from time to time.
- Bulk data* means records requested in bulk or selective form (not an individual record) that may have commercial value.
- Designated act* means section 113 of the *Electricity Act, 1998*, as amended from time to time.
- Personal information* means any recorded information about an identifiable individual, but does not include information about a business, whether structured as a corporation, partnership, sole proprietorship or otherwise.
- Records* means any record of information, however recorded, whether in printed form, or film, by electronic means or otherwise in the custody and control of the ESA pursuant to either the administrative agreement or to ESA's administration of the designated Act.
- Electrical Safety Authority (ESA)* means the not-for-profit corporation without share capital incorporated under the *Corporations Act*, R.S.O. 1990, c.C.38 by Letters Patent dated January 12, 1999.

1. Accountability

ESA is responsible for all records and personal information under its custody and control and shall designate an individual or individuals who are accountable for the corporation's compliance with this Code.

2. Access to Records

Every person has a right of access to a record or a part of a record in the custody and under the control of ESA unless the record or part of the record falls within a section 3 exemption. ESA shall routinely disclose and actively disseminate records with a recognition of its role in maintaining public electric safety.

3. Exemption to Access

- a) ESA shall refuse to disclose records that constitute:
 - i) personal information, disclosure of which violates an individual's right to privacy, unless that individual consents to the disclosure; or
 - ii) records containing commercial, proprietary, technical or financial information of ESA or of any person or business that has supplied the records to ESA in confidence, if disclosure would result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations.
- b) ESA may refuse to disclose records and personal information where the disclosure:
 - i) violates a legally recognized privilege;
 - ii) compromises ongoing investigation and enforcement activities of ESA;
 - iii) impairs the ability of ESA to provide a fair, safe and informed marketplace that supports a competitive economy;
 - iv) involves bulk data and aggregate accident and other sensitive aggregate data that identifies a specific person;
 - v) involves information that is the substance of deliberations by ESA's Board of Directors and its committees, or committees established by ESA, including but not limited to, agenda, minutes, policy options and analysis, internal advice, proprietary information, and advice to government;
 - vi) violates a provision of the designated Act; or
 - vii) could reasonably be expected to adversely impact compliance with regulatory requirements.

- c) ESA shall disclose as much of the record as can be reasonably severed without disclosing exempted information.

4. Access Procedure

ESA shall develop and implement effective procedures and practices which establish time frames for responding to inquiries regarding records and personal information. ESA shall provide an estimate of the cost, if any, of providing the information.

ESA shall provide reasons to a requester for denying access to records or personal information.

Upon request, ESA shall advise an individual regarding the existence, use and disclosure of his or her personal information and, subject to the exemptions noted in section 3 of this Code, provide the individual with access to their personal information in a comprehensible form.

5. Collection & Retention of Personal Information

The collection of personal information shall be from the individual to whom the information relates unless the individual authorizes another manner of collection or if an indirect collection is necessary for ESA's administration of the designated Act.

The purposes for which personal information is collected shall be communicated to the individual to whom the information relates by ESA at or before the time the information is collected.

ESA shall take reasonable steps to ensure that the personal information in its custody and under its control is not used unless it is accurate, complete, and as up-to-date as is necessary for the purposes for which it is to be used. Amendments to personal information received from the individuals to whom it relates shall be recorded by ESA as soon as practically possible.

Personal information shall be retained only as long as necessary to fulfill the purposes for which the information was collected. ESA shall develop procedures and practices to govern the period of time personal information is retained and the methods by which it should be destroyed, erased or made anonymous.

In order to prevent the unauthorized disclosure, use, copying or modification of personal information in the custody and under the control of ESA, access to such information shall be restricted by the use of appropriate security mechanisms.

6. Use & Disclosure of Personal Information

Personal information shall not be used or disclosed to a third party for purposes other than those for which it was collected, except;

- a) with the consent of the individual to whom the information relates;

- b) where the information is disclosed for purposes related to ongoing investigation or enforcement activities of ESA pursuant to the designated Act; or
- c) where ESA has entered into an agreement with a third party to manage or use ESA records on its behalf and where such agreements requires the third party to comply with this Code and have in place security safeguards comparable to those used by ESA.

Where personal information is made available to third parties on an ongoing basis pursuant to section 6 of the Code, amendments to such information shall be regularly provided to the third parties.

7. Complaints & Remedies

Where an individual disagrees with the accuracy of personal information about himself or herself, the individual has the right to challenge its accuracy and have it amended as appropriate. Where a correction is requested but not made, a statement of disagreement must be maintained on file. Where a correction is made to the personal information or a statement of disagreement maintained on file, that information shall be communicated to any third party as soon as practical.

ESA shall develop and implement procedures and practices which establish a mechanism to deal with complaints regarding the release of records and personal information or the refusal to release such records or information to a requester. If a complaint is found to be justified, ESA shall take appropriate measures to rectify the problem, including where necessary, amending its procedures and practices.

8. Fees

Personal information shall be made available to the person to whom the information relates at a reasonable or no cost.

Records, other than bulk data, shall be made available to a requester at a cost which reflects the total cost of providing the information. The cost of providing bulk data will be determined on a case by case basis. In determining fees, ESA will make efforts to be consistent and base costs on publicly available criteria.

9. Administration

ESA shall make available to the public information regarding this Code and related procedures and practices, including:

- a) the name of the person accountable for compliance with this Code;
- b) the name of the person(s) to whom complaints should be directed;

- c) the form such complaints should take;
- d) the means of gaining access to records, including personal information in the custody and under the control of ESA;
- e) a description of the types of personal information held by ESA; and
- f) brochures or other documentation describing this policy and its related procedures and practices.

ESA shall proactively inform staff about this Code and provide adequate training to enable staff to comply with this Code and related procedures and practices.