

Ontario Labour Relations Board

505 University Avenue
2nd Floor
Toronto, Ontario M5G 2P1
Telephone: 416-326-7500

Commission des relations de travail de l'Ontario

505, avenue University
2^e étage
Toronto (Ontario) M5G 2P1
Téléphone: 416-326-7500

**TRIBUNAL ADJUDICATIVE RECORDS ACT, 2019**

The *Tribunal Adjudicative Records Act, 2019* (“TARA”) came into force June 30, 2019. The Board’s procedures for making a request for documents pursuant to TARA are set out in the Board’s Rules of Procedure (and an excerpt is provided below).

TARA provides that adjudicative records (as defined in the statute) are presumptively available to the public. Certain records are also expressly excluded by the statute [s. 1(3)]. It also provides that parties and affected persons may apply for, and the Board itself may make, confidentiality orders in certain circumstances.

TARA will apply to adjudicative records in all proceedings before the Board that are commenced on or after TARA comes into force. The Board will continue to apply its existing Procedures on Access to Documents and Exhibits Contained in Board Adjudication Files to requests in respect of proceedings commenced before that date.

Statutory provisions governing the secrecy or confidentiality of certain records will prevail over TARA. Such records will include membership evidence or evidence of employee wishes.

Upon receiving a request for documents pursuant to TARA where no confidentiality order has been issued, the Board may make the document available to the requester **without notice to the parties to the proceeding** or, in its discretion, the Board may advise the parties in the Board file of the request (including the identity of the requester) and may provide an opportunity for those parties to provide submissions.

While the Board retains discretion to seek submissions on any request, the Board generally regards the following as adjudicative records within the meaning of TARA and will typically make the following documents available to the requester without notice to the parties

- application forms and attached schedules/ statement of facts;
- response and/or intervention forms and attached schedules/ statement of facts;
- documents which are required to be attached to an application (such as Ministry Orders and/or Field Visit Reports, and the decisions of an Employment Standards Officer);
- notices of hearing;
- written legal submissions; and
- documents which have been made an exhibit in a Board hearing.

The Board typically does not produce copies of decisions, as they are publicly available at www.canlii.org, a free legal information database.

Part VIII of the Board’s Rules addresses requests for adjudicative records and requests for confidentiality

orders.

The text of the *Tribunal Adjudicative Records Act, 2019* is available here: <https://www.ontario.ca/laws/statute/19t07>.

The text of the Regulation providing that certain statutes prevail over TARA is available here: <https://www.ontario.ca/laws/regulation/r19211>.

ONTARIO LABOUR RELATIONS BOARD – RULES OF PROCEDURE

(excerpt re: Tribunal Adjudicative Records Act)

PART VIII – TRIBUNAL ADJUDICATIVE RECORDS ACT, 2019

RULE 42 DEFINITIONS

42.1 In Part VIII of these Rules,

“adjudicative record” means:

- (a) an application or other document by which a proceeding before the Board is commenced;
- (b) a notice of a hearing before the Board;
- (c) a written submission filed with the Board in respect of a proceeding before the Board;
- (d) a document that has been admitted as evidence at a hearing of the Board or otherwise relied upon by the Board in making a decision or an order; and
- (e) any other record that relates to a proceeding before the Board and that is prescribed by the regulations made under TARA.

“party” includes the parties to the Board File affected by a request, the person making the request, and persons who could be affected by a confidentiality order or the disclosure of adjudicative records.

RULE 43 REQUESTS FOR ACCESS

43.1 A request for access to an adjudicative record under TARA must be made in writing to the Registrar, using one of the methods for filing permitted by Rules 6.8 and 6.9. E-mailed requests will not be processed or responded to.

43.2 The request must

- (a) describe the adjudicative record(s) being sought and identify the relevant Board proceeding.
- (b) provide the requester’s mailing address, telephone number, fax number if any; and
- (c) wherever possible, provide an email address to which records will be sent if the request is granted.

43.3 If the Board determines that notice is required to be given to another party or parties, the Board will make the appropriate directions concerning notice, submissions and any other matters required to be addressed.

RULE 44 REQUESTS FOR CONFIDENTIALITY ORDERS

44.1 Confidentiality orders may be sought by parties to a Board file and persons who would be affected by disclosure of an adjudicative record. They may also be made by the Board of its own motion.

44.2 Other than where the request arises in the course of a hearing, a request for a confidentiality order under TARA must be made in writing to the Registrar, using one of the methods for filing permitted by Rules 6.8 and 6.9. E-mailed requests will not be processed or responded to.

44.3 The request must:

- (a) provide the requester's mailing address, telephone number, fax number if any and email address if any;
- (b) describe the adjudicative record(s) in respect of which the confidentiality order is sought and identify the relevant Board proceeding; and
- (c) provide complete written representations in support of the order requested.

44.4 Where a request for a confidentiality order arises in the course of a hearing, the Board may seek submissions from the parties in the hearing or may direct that submissions be made in writing.

44.5 If the Board determines that notice is required to be given to another party or parties, the Board will make the appropriate directions concerning notice, submissions and any other matters required to be addressed.

RULE 45 GENERAL

45.1 Unless a party can satisfy the Board that there is good reason for not doing so, the Board will determine requests for access and requests for confidentiality orders based only on the parties' written submissions.