



firm profile

McMillan is a modern and ambitious business law firm serving public, private and not-for-profit clients across key industries in Canada, the United States and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan's commitment to serve our clients, our local communities and the legal profession. For more information, please visit our website at www.mcmillan.ca.

contacts

Lyndsay A. Wasser
416.865.7083

workplace privacy

overview

Workplace privacy involves a number of unique issues and challenges. Organizations require a lot of employee personal information in order to establish and manage employment relationships. In many cases, the amount and sensitivity of employee personal information handled by the organization is far greater than the personal information collected by the organization about customers and other third parties.

In a number of jurisdictions there are statutory requirements and restrictions upon the collection, use, storage, disclosure and disposal of employee personal information. Arbitrators have also considered a number of privacy issues impacting unionized employees, and imposed some limits upon potentially invasive employer activities. In addition, there is evolving case law respecting employee privacy rights in non-unionized workplaces where there is no applicable privacy legislation. Balancing employer needs with the privacy rights and expectations of employees requires a thorough understanding of the legislation, case law and guidelines issued by the privacy commissioners.

McMillan's Privacy Group helps employers to understand the application and impact of privacy laws on issues that specifically affect employees and the workplace. We assist our clients to implement compliance measures that balance management objectives with privacy rights.

McMillan professionals help clients lead by:

- Advising on the application of privacy laws to employee personal information across Canada
- Drafting and reviewing employee privacy policies and other policies that have an impact on employee privacy (e.g., BYOD, social media and technology usage policies)
- Drafting notices and consent forms, where required
- Advising on privacy and other legal issues related to recruitment, including background checks
- Advising on privacy issues related to employee monitoring (e.g., computer, video, phone, GPS)
- Advising and assisting organizations with employee investigations
- Advising on privacy and other legal issues related to drug and alcohol testing
- Advising on handling sensitive employee information, such as medical information
- Advising on privacy issues related to searching employees and their property
- Advising on maintenance of and access to personnel files



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- Advising on collection of biometric information
- Advising on outsourcing of HR functions, including cross-border outsourcing
- Advising on privacy issues unique to unionized workforces
- Advising employers on disciplining employees on the basis of off-duty misconduct
- Advising on post-employment matters, including providing reference checks and disposal of former employees' personal information