



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 0722-23-R  
Certification (Industrial)

Association of Management, Administrative and Professional Crown Employees  
of Ontario, Applicant v The Office of the Information and Privacy  
Commissioner of Ontario, Responding Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following documents:

Decision - June 27, 2023  
Confirmation of Posting  
Notice of Electronic Vote  
Notice of Electronic RCM-RTM Meeting  
Notice of Hearing  
Declaration

DATED: June 27, 2023

Catherine Gilbert  
Registrar

Website: [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca)

Address all communication to:

The Registrar  
Ontario Labour Relations Board  
505 University Avenue, 2nd Floor  
Toronto, Ontario M5G 2P1  
Tel: 416-326-7500  
Toll-free: 1-877-339-3335



## ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0722-23-R**

Association of Management, Administrative and Professional Crown Employees of Ontario, Applicant v **The Office of the Information and Privacy Commissioner of Ontario**, Responding Party

**BEFORE:** Michael McCrory, Vice-Chair

**DECISION OF THE BOARD:** June 27, 2023

1. This is an application for certification filed under the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").
2. Based on a review of the records maintained by the Board, the Board is satisfied that in an earlier proceeding under the Act the applicant has been found to be a trade union. Therefore, having regard to the Board's records and section 113 of the Act, the Board finds that the applicant is a trade union within the meaning of section 1(1) of the Act.
3. The applicant has filed a combination of photocopied and electronically generated membership evidence. By way of a Notice to Community dated August 19, 2022, the Board has advised that it will continue to accept both. With respect to the photocopied membership evidence, originals must be retained, and the Board may require the applicant to produce them at a later date. Certificates may not be granted until the Board has the opportunity to request and review the original membership evidence. As for the electronically generated membership evidence, the Board must be satisfied that the authenticity of the evidence can be verified, and it requires a detailed explanation of the security and verification measures taken by the applicant to ensure such authenticity.
4. The applicant has provided the Board with a transaction report for each card filed electronically. The report indicates when the membership card was created and by whom, when the employee signed

the card, and when the application was completed. The Board is satisfied that the information contained in the transaction report is sufficient for purposes of verifying the membership evidence filed.

5. It appears to the Board on an examination of only the information provided in the application and the information and membership evidence filed by the applicant (see section 8(3) of the Act), that not less than 40% of the individuals in the bargaining unit proposed in the application for certification were members of the union at the time the application was made.

6. In the application, the applicant claims that the following bargaining unit is appropriate for collective bargaining:

all employees of the Office of the Information and Privacy Commissioner of Ontario, save and except persons excluded under 1(3)(b) of the *Labour Relations Act*.

7. The responding party disputes the applicant's estimate of the number of employees in the applicant's proposed bargaining unit. Furthermore, the responding party proposes a different bargaining unit than that proposed by the applicant, and it contends that the applicant's bargaining unit could not be appropriate. It gives notice under section 8.1 of the Act.

8. Specifically, the responding party states that the applicant's proposed bargaining unit is circular, ambiguous, does not identify the positions excluded from the bargaining unit and includes persons who are specifically excluded under the Act. Notably, the responding party states that by expressly limiting the exclusions to those falling under section 1(3)(b) of the Act, the applicant is implicitly seeking to include persons excluded by virtue of section 1(3)(a) of the Act, including members of the legal profession who are employed in their professional capacity, rendering the proposed unit inappropriate. The responding party also states that any person who works in its Legal Services Department ought to be excluded and that the proposed unit will hamper the parties' ability to negotiate a first collective agreement.

9. The responding party proposes the following bargaining unit to account for the above concerns:

all employees of the Office of the Information and Privacy Commissioner of Ontario employed in the province of Ontario, save and except the Registrar and Assistant Registrar, Legal Services Department, Managers and persons above the rank of Manager, Human Resources Staff, Executive Assistants and Administrative Assistants to the Commissioner and Assistant Commissioners, and the Corporate Business Coordinator.

10. After comparing the membership evidence provided by the applicant against the information provided by the responding party, the Board finds that the numerical difference between the parties is not significant. The applicant has established sufficient membership support in its proposed bargaining unit for the purposes of obtaining a representation vote. However, given the issues described above, whether the applicant's proposed bargaining unit could be appropriate remains to be determined. Under these circumstances, the Board directs that the ballot box be sealed, and the ballots cast not counted unless the parties agree or the Board otherwise directs. Ballots cast shall be individually segregated.

11. The Board directs that a representation vote be taken of the individuals in the following voting constituency:

all employees of the Office of the Information and Privacy Commissioner of Ontario, save and except persons excluded under 1(3)(b) of the *Labour Relations Act*.

12. The vote should be held electronically in keeping with the Board's Notice to the Community dated August 19, 2022. To this end, the applicant states that it would prefer that members be permitted to vote using their personal e-mail addresses due to their concerns about privacy.

13. The Board's electronic voting system is designed to use one e-mail address. The Board's general practice is to prefer the e-mail addresses provided by the responding party unless there are extenuating circumstances (e.g., the responding party has not filed a response). The use of work e-mail addresses provided by the responding party increases the likelihood that they are all valid and current. The

Board's electronic voting system is secure, but the Board notes that members always have the option of voting by phone.

14. Accordingly, in order to conduct the vote, the responding party is directed to provide only to the Board the e-mail addresses for each of the individuals in the voting constituency so that the Board can provide electronic e-mail notice of the vote. The responding party must also e-mail only the Board the mailing addresses, telephone numbers and employee numbers to the extent that it is in possession of such information for each of the individuals in the voting constituency. It is directed to e-mail all of this information to the Board via an Excel spreadsheet by **09:30 a.m. on Wednesday, June 28, 2023, at: OLRBVotes@ontario.ca.**

15. **The vote will begin on Thursday, June 29, 2023, and will continue for a period of 24 hours.** This period may be extended at the discretion of the Manager of Field Services. Other vote arrangements will be as determined by the Registrar and set out on the attached "Notice of Vote".

16. There may be a dispute between the parties as to whether or not the positions of Registrar, Assistant Registrar, Managers and persons above the rank of Manager, Human Resources Staff, Executive Assistants and Administrative Assistants to the Commissioner and Assistant Commissioners, and the Corporate Business Coordinator, as well as positions in the Legal Services Department should be included in the bargaining unit. If any individual holding such a position wishes to cast a ballot, the individual shall identify himself or herself as occupying a disputed position and such individual shall then be entitled to cast a ballot. Any ballot cast by such an individual shall be segregated and not counted until the Board so orders or the parties agree.

17. All individuals who had an employment relationship with the responding party in the voting constituency on June 22, 2023, the certification application filing date, are eligible to vote. Employees having an employment relationship on June 22, 2023, the certification application filing date, include employees who were not at work on that date, so long as there is a reasonable expectation of their return to employment.

18. Voters will be asked to indicate whether or not they wish to be represented by the applicant in their employment relations with the responding party.

19. The responding party is directed to post copies of this decision and of the "Notice of Vote" adjacent to each of the posted copies of the "Notice to Employees of Application for Certification". These copies must remain posted for 45 business days. The responding party is further directed to e-mail a copy of both documents to employees for whom it is in possession of the required contact information.

20. Any party or person who wishes to make representations to the Board about any issue remaining in dispute which relates to the application for certification, including any matters relating to the representation vote, must file a detailed statement of representations with the Board and deliver it to the other parties, so that it is received by the Board within five days (excluding Saturdays, Sundays and holidays on which the Board is closed) of the date on which the vote is taken. Representations with respect to any status disputes must be made in accordance with the directions provided in Information Bulletin No. 4: Status Disputes in Certification Applications (Non-Construction).

21. The dispute concerning the bargaining unit description will be addressed in the normal course.

22. This matter is referred to the Registrar.

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"Michael McCrory"  
for the Board



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Association of Management, Administrative and Professional Crown Employees  
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Commissioner of Ontario, Responding Party

### CONFIRMATION OF POSTING

Instructions: Each Employer or Employer's Representative must fill out this form after posting of applicable documents and send it to the Registrar of the Board. Although the Application and Notice to Employees must be posted immediately, the Employer may wait to complete ONE form to indicate posting of Application, Notice to Employees and Response, and then file this form along with its Response.

Forms indicating immediate posting of OTHER documents should be filed as and when the documents are posted.

Name of Employer completing the Posting:
Name and Title of Person completing this Form:

I declare that the above-named Employer has posted, according to the above instructions, copies of the following documents (if and as applicable) at the workplace(s) or at worksite(s) where the documents are most likely to come to the attention of the employees or other individuals affected by the Application.

DOCUMENT	NUMBER POSTED	DATE POSTED	TIME POSTED
Application and Notice to Employees of Application			
Response			
Decision and Notice of Vote, Vote Poll(s), Vote Count, Meeting, Hearing			
Vote Office's Report			

DATE:

SIGNATURE:





ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 0722-23-R  
Certification (Industrial)

Association of Management, Administrative and Professional Crown Employees  
of Ontario, Applicant v The Office of the Information and Privacy  
Commissioner of Ontario, Responding Party

Application Date: June 22, 2023

THIS IS AN OFFICIAL NOTICE OF THE BOARD AND  
MUST NOT BE REMOVED, DEFACED OR DESTROYED

THE EMPLOYER MUST IMMEDIATELY POST THIS NOTICE (IN LOCATIONS  
WHERE IT IS MOST LIKELY TO COME TO THE ATTENTION OF EMPLOYEES  
OR OTHER INDIVIDUALS AFFECTED BY THE APPLICATION) NEXT TO  
THE BOARD'S NOTICE TO EMPLOYEES OF APPLICATION AND/OR THE  
BOARD'S DECISION ORDERING A VOTE

THE EMPLOYER OR ITS REPRESENTATIVE MUST RETURN A  
CONFIRMATION OF POSTING TO THE REGISTRAR

THIS NOTICE MUST REMAIN POSTED FOR 45 BUSINESS DAYS

## NOTICE OF ELECTRONIC VOTE

TO THE PARTIES LISTED ON APPENDIX A:

The Board has ordered a Representation Vote. A copy of the Board's Decision ordering the Vote is posted with this Notice.

### VOTING CONSTITUENCY

The Board has ordered that the following group of voters (the voting constituency) is eligible to vote:

all employees of the Office of the Information and Privacy  
Commissioner of Ontario, save and except persons excluded under  
1(3)(b) of the Labour Relations Act.

This voting constituency includes all employees (including dependent contractors) who were in the bargaining unit who had an employment relationship with the Employer on the Application Date at the top of this Notice. Employees having an employment relationship include employees on maternity leave, sick leave, vacation, workers' compensation, lay-off, etc. so long as there is a reasonable expectation of their return to employment.

### METHOD OF VOTE

The vote will be conducted ONLINE and by TELEPHONE.

### VOTE DATE(S)

The vote starts on June 29, 2023 at 2:00 PM and ends on June 30, 2023 at 2:00 PM (Eastern Time).

### VOTE INSTRUCTIONS

A personal identification number ("PIN") is needed to vote. Eligible voters will receive an email containing their confidential PIN and detailed instructions before the vote commences. PINs are strictly for personal use by voters and must not be shared with anyone.

If an employee believes they are eligible to vote and does not receive a PIN, or requires any assistance to vote, they may contact the Ontario Labour Relations Board ("OLRB") Help Desk (see hours and contact information

below). If no one answers, employees should leave a detailed message with their full name, contact information, and OLRB case number, and a Vote Officer will respond to the message as soon as possible.

OLRB Help Desk Telephone:

416-953-0926

OLRB Help Desk Hours of Operation:

June 29, 2023 - 4:00 PM to 5:00 PM  
June 30, 2023 - 12:30 PM to 1:00 PM  
All times listed are Eastern Time.

TELECONFERENCE

Representatives for each of the parties are required to participate in a conference call with the Vote Officer after the Vote to discuss any outstanding issues. The Board has scheduled the following:

Date and Time: June 30, 2023 at 3:00 PM  
Method: Teleconference (Call coordinates to be provided later)

VOTE COUNT

If the parties agree at the vote about the eligibility of employees to vote, the ballots will normally be counted and a report that sets out the results of the vote will be posted next to this Notice. If any issues are not resolved, the results of the vote may not be announced, and a meeting and/or hearing may be held. However, many applications are settled by discussions with a Board Mediator without the need for a meeting or hearing.

The date, time and location of a Vote Count (if one is held) and of meetings and hearings (if meetings or hearings are scheduled) are attached.

SECRET BALLOT

The vote will be by secret ballot. Voters are entitled to vote without interference, restraint or coercion.

QUESTION ON THE BALLOT

The ballot that will be provided to voters contains the question which appears on the attached Schedule A.

If you wish to say something to the Board about this Application and to participate in any meetings and/or hearings held, you must send a written statement to the Board (as described on the Notice to Employees of Application) not later than July 10, 2023, the Vote Objection Date. Your written statement must be served on all other parties before you file it with the Board.

You should not write to the Board if the only thing you want to say is that you support or do not support the Union. You will have an opportunity to express your wishes by voting.

DATED: June 27, 2023

Catherine Gilbert  
Registrar

Website: [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca)

Address all communication to:

The Registrar  
Ontario Labour Relations Board  
505 University Avenue, 2nd Floor  
Toronto, Ontario M5G 2P1  
Tel: 416-326-7500  
Toll-free: 1-877-339-3335

SCHEDULE A

QUESTION ON THE BALLOT

The ballot that will be provided to voters contains the following question:

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In your employment relations with your Employer, do you wish to be represented by the Union?

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## ONTARIO LABOUR RELATIONS BOARD IMPORTANT NOTES

The Board's forms, Notices, Information Bulletins, Rules of Procedure and Filing Guide may be obtained from its website <http://www.olrb.gov.on.ca> or by calling 416-326-7500 or toll-free at 1-877-339-3335.

### FRENCH OR ENGLISH

Vous avez le droit de communiquer et recevoir des services en français et en anglais. La Commission n'offre pas de services d'interprétation dans les langues autres que le français et l'anglais.

You have the right to communicate and receive services in either English or French. The Board does not provide translation services in languages other than English or French.

### CHANGE OF CONTACT INFORMATION

Notify the Board immediately of any change in your contact information. If you fail to do so, correspondence sent to your last known address (including email) may be deemed to be reasonable notice to you and the case may proceed in your absence.

### ACCESSIBILITY AND ACCOMMODATION

The Board is committed to providing an inclusive and accessible environment in which all members of the public have equitable access to our services. We will aim to meet our obligations under the Accessibility for Ontarians with Disabilities Act in a timely manner. Please advise the Board if you require any accommodation to meet your individual needs. The Board's Accessibility Policy can be found on its website.

### FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

Personal information is collected on this form under the authority of the Board's governing legislation to assist in the processing of cases before it. Information received in written or oral submissions may be used and disclosed for the proper administration of the Board's legislation and processes. Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. The Freedom of Information and Protection of Privacy Act may also address the collection, use and disclosure of personal information. If you have any questions, contact the Solicitors' Office at the numbers listed above or in writing to the OLRB, 505 University Ave., 2nd floor, Toronto, ON M5G 2P1.

## E-FILING AND E-MAIL

The Rules of Procedure and Filing Guide set out the permitted methods of filing. Forms and submissions may be filed with the Board by a variety of methods including the Board's e-filing system, but not by e-mail. In the event of emergencies or other circumstances, the Board may post a Notice to Community on its website, which will prevail over the Rules of Procedure and Filing Guide. You should check the Board's website prior to filing. Note that the e-filing system is not encrypted and e-filing is optional. Contact the Client Services Coordinator at the numbers listed above if you have questions regarding e-filing or other filing methods. If you provide an e-mail address with your contact information, the Board will in most cases communicate with you by e-mail from an out-going only generic account. Incoming emails are not permitted.

## HEARINGS AND DECISIONS

Hearings are open to the public unless the Board decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library and [www.canlii.org](http://www.canlii.org). Some summaries and decisions may be found on the Board's website.



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LOCATIONS WHERE THEY ARE MOST LIKELY TO COME TO THE  
ATTENTION OF EMPLOYEES OR OTHER INDIVIDUALS AFFECTED BY THE  
APPLICATION) NEXT TO THE APPLICATION, THE BOARD'S NOTICE TO  
EMPLOYEES OF APPLICATION, AND/OR THE BOARD'S DECISION

NOTICES MUST REMAIN POSTED FOR 45 BUSINESS DAYS



NOTICE - REGIONAL CERTIFICATION MEETING OR  
REGIONAL TERMINATION MEETING

TO THE PARTIES LISTED ON APPENDIX A:

The Board has scheduled the following:

Date(s) and Time: July 19, 2023 at 10:00AM  
Method: Video Conference / Teleconference  
(coordinates to be provided at a later date)

The purpose of a Regional Certification Meeting or Regional Termination Meeting is to mediate the issues in dispute, and to record the parties' positions on the outstanding issues.

Please have with you any records that may be relevant to these issues, including documents that relate to the inclusion or exclusion of employees from the bargaining unit.

The Board's processes are explained in its Information Bulletins, available on the Board's website (see below). If you have any additional questions, please raise them at the meeting.

DATED: 27-Jun-2023

Travis Kearns  
Manager, Mediation Services  
Tel: 647-236-7574  
Toll-free: 1-877-339-3335  
Fax: 416-326-6299  
travis.kearns@ontario.ca

NOTE:  
Address all communication to:

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## NOTICE OF HEARING

TO THE PARTIES LISTED ON APPENDIX A:

The Board has scheduled the following:

Hearing Type:	Regular Hearing
Date(s) and Time:	July 24, 2023 at 09:30AM
Location:	505 University Avenue, Floor 2, "Board Room", Toronto ON M5G 2P1

The purpose of the hearing is to hear the evidence and representations of the parties with respect to all matters relating to this application that have not been settled by the time the hearing occurs. The parties are entitled to be represented by counsel or an agent, and may be expected to call and examine witnesses, to conduct cross-examination, and to present argument.

If disputes about whether certain individuals should or should not be on the voters' list or in the bargaining unit form any part of the outstanding issues, the hearing will likely be postponed by one week. If this happens, a notice providing the new hearing date will be sent to the parties, and the Board will order the Employer to post the notice beside this Notice.

IF YOU DO NOT ATTEND, THE BOARD MAY DECIDE THE APPLICATION WITHOUT FURTHER NOTICE TO YOU AND WITHOUT CONSIDERING ANY DOCUMENT YOU MAY HAVE FILED.

DATED: June 27, 2023

Catherine Gilbert  
Registrar

Website: [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca)

Address all communication to:	The Registrar Ontario Labour Relations Board 505 University Avenue, 2nd Floor Toronto, Ontario M5G 2P1 Tel: 416-326-7500 Toll-free: 1-877-339-3335
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APPENDIX A

Goldblatt Partners LLP  
Attention: June Mills  
Counsel  
Tel: 416-979-4380  
Email: jmills@goldblattpartners.com; battwell@goldblattpartners.com

Goldblatt Partners LLP  
Attention: Marisa Pollock  
Counsel  
Tel: 416-979-6441  
Email: mpollock@goldblattpartners.com; kcrawford@goldblattpartners.com

Association of Management, Administrative and Professional Crown Employees  
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Attention: Dave Bulmer  
Tel: 416-595-9000  
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Email: bulmer@amapceo.on.ca

Association of Management, Administrative and Professional Crown Employees  
of Ontario  
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Association of Management, Administrative and Professional Crown Employees  
of Ontario  
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Stringer LLP, Management Lawyers  
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Fax: 416-363-7358  
Email: jschwartz@stringerllp.com

The Office of the Information and Privacy Commissioner of Ontario  
Attention: President/Manager/Director  
Tel: 416-326-3333  
Email: [commissioner.IPC@ipc.on.ca](mailto:commissioner.IPC@ipc.on.ca)