

MEMORANDUM

Vice President, Finance and Administration

Date: October 19, 2022
To: Algonquin College Leadership Team (ACLT)
From: Duane McNair, Vice President, Finance and Administration
Subject: Signing Authority for Non-Disclosure Agreements

Description

A Non-Disclosure agreement (NDA) is a legally enforceable contract that prohibits the unauthorized disclosure of sensitive information and establishes a “confidential relationship” between parties.

A Confidentiality Agreement is a type of NDA. Whereas an NDA protects secrecy by creating a confidential relationship, a Confidentiality Agreement simply binds the parties from disclosing the sensitive information.

The Obligation

Both NDAs and Confidentiality Agreements are contracts that are used to identify sensitive information and restrict it from being disclosed to the public or unauthorized third parties.

Purpose

An NDA identifies sensitive information and places protections upon it. The confidential relationship created with an NDA requires that at least one of the parties does not disclose the information without authorization. An NDA can be unilateral or bilateral (mutual). Confidentiality Agreements are used to legally restrict parties from disclosing or profiting from sensitive information.

An NDA is best suited for situations where one party wants to restrict sensitive information before disclosing it to another. Confidentiality Agreements are best suited for situations where two or more parties intend to work on a project that requires the sharing of sensitive information.

Generally, an NDA is three pages or less.

The key elements that need to be identified in a Non-Disclosure Agreement are:

- the names of the parties
- the term of the agreement
- the information being protected

- the confidentiality obligation
- situations where the disclosure obligation does not apply

Risks

There are consequences for breaking the confidentiality protections identified in an NDA. When prosecuted for breaking an NDA, the offending party will usually be responsible for the estimated financial losses with legal expenses realized by the protected parties. In some cases, courts will also impose financial damages on the offending party.

Signing Authority for Non-Disclosure Agreements

The Signing Authority Matrix in the Board Governance Policy (BG II-06), Delegation of Contract Signing Authority identifies College Administrators authorized to execute legal documents, contracts, and instruments on behalf of the College.

The Policy details that when a contract requiring execution is not specifically identified in the Signing Authority Matrix, signing authority will be determined by the President or the Treasurer.

With respect to the execution of Non-Disclosure Agreements, as the Algonquin College Treasurer, I hereby delegate Signatory 2 (signing approval) authority to Category 2(A) College Administrators and Signatory 1 (review) authority to Category 2(B) Administrators.

Portion of College Administrator Categories Table (from Policy BG II-06, Section 1.1)

Category 2(A) College Administrators
Associate Vice Presidents
Chief Financial Officer
Chief Digital Officer
Executive Directors
Category 2(B) College Administrators
Deans and Directors