



## Grievance Policy and Procedures

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### COMPLAINT & GRIEVANCE PROCEDURE

A grievance is a written complaint filed by an employee, volunteer, or client expressing dissatisfaction with conditions or perceived violation of agency policies. The formal grievance procedure is reserved for critical or significant human resource issues affecting clients, volunteers or employees (e.g., abuse, harassment, discrimination, terminations, promotions, grossly unfair, unethical or unprofessional treatment by co-workers and direct reports, etc.), and which have not been successfully resolved through more informal means. When these conditions exist, the person may initiate a grievance review according to the following established procedures.

Persons who seek resolution of situations associated with the organization by using established procedures are assured that they will not be subjected to discrimination or retaliation, or be penalized in any way for their use of these procedures.

End Goals. The aim of a complaint resolution process is to:

- return the complainant to the position they would have been in if the abuse, discrimination or harassment had not occurred,
- ensure the best interests of the organization occurs in the decision-making conclusions, and
- restore the organizational and work place to a space that is respectful and safe; with collegial interpersonal relationships among all, free from abuse, harassment, and discrimination, and/or as it was before the incident(s) occurred.

Confidentiality. Confidentiality among those involved in the complaint must be observed. The use of email or text messaging, and the inclusion of multiple people not directly involved in the issue interactions, posting of communications publicly, or breaches of privacy are considered unprofessional. Use of these method of communication will may result in the use of disciplinary procedures and/or the complaint being tabled until professional lines of direct communication are established.

Respectful Communications. Respectful communications among those involved in the complaint must also be observed. Use of vitriolic or escalating language rarely helps an issue being resolved, and is considered unprofessional. Use of this method of communication will

may result in the use of disciplinary procedures and/or the complaint being tabled until professional lines of direct communication are established.

Descriptive Factual Reporting. When describing the incident or issue, it is recommended to simply give a step-by-step description of actual statements and behaviours. The use of innuendo, third party accounts, dishonesty, exaggeration or other types of communication is considered unprofessional. Use of this method of communication will may result in the use of disciplinary procedures and/or the complaint being tabled until professional lines of direct communication are established.

### **Obligation to Use Informal Direct Communication**

Before a formal complaint is file and a process launched, a person having a problem, complaint, or dispute as defined above is to make every effort to resolve the matter through informal direct face-to-face communication (not email or text messaging) with the immediate person with whom the complaint is with; and without the involvement of other individuals not included in the actual direct events.

### **Filing a Grievance**

If the resolution of the complaint does not occur through direct communication, then the person may take the issue to the person they directly reports to (direct report) or the direct report's delegate. In the case the grievance is with the direct report then the complaint report must go to the President. The person receiving the complaint report will take the matter under consideration and attempt to resolve it verbally or provide a satisfactory explanation within 5 working days, unless additional time is needed to gather adequate information. The Board of Directors must be made aware of all grievances.

### Only After Resolution does not Occur, Filing a Grievance may Occur

The direct report must be consulted before the formal grievance process is initiated. If the person's matter is unresolved, or not resolved to the person's satisfaction through direct communication and through the direct report, then the aggrieved person may file a written grievance request with the President or the next appropriate member of the executive within 5 working days following the direct report's response. This written request should be made in confidence and to one person; it must outline:

- The allegation being made, a clear type of problem or grievance is identified, and the section of the policy which has been alleged breached.
- Specific details of the problem, including names, dates, times and content of the interaction(s).
- Specific attempts at direct communication to resolve the complaint or issue.
- Specific attempts at resolution prior to initiating the grievance.
- Resolution of the issues expected by the person.

### Creating a Final Response

Within 10 working days of receiving the person's written request, or when parties are first available, the Executive or its delegate will arrange a meeting with the person to allow the person to present a personal and complete description of the situation. A copy of this written grievance will be sent to the immediate direct report. The Executive delegate will meet with the direct report and the complainant to obtain additional information and a seek a response from the person alleged to have not followed policies. The Executive delegate will evaluate the facts related to the situation and provide a response within 10 days of the investigation being complete.

## **Investigation procedures**

The entire process should be descriptive, seeking clarity and substantiation of events, dates, and actual behaviours. Details that are descriptive and substantiated should be identified as such and included in the decision of the investigator.

Hearsay, innuendo, third party accounts, dishonesty, exaggeration or other types of communication should be identified as such and not used in the decision of the investigator. The investigator must approach the process with neutrality and in recognition of the right of both parties to a fair hearing. No one should be assumed to have broken policy before an investigation, and no one should assume the person making allegation is doing so frivolously.

Care should be taken to ensure all parties are made safe in the process, free to speak in confidentiality, privacy is respected. The Executive or Board of Directors may take any steps outside the investigation process to ensure people's safety before, during and after the investigation. It is the responsibility of the investigator to withdraw from the process in the event that their neutrality is compromised.

The investigation process must determine the factual events, if policy is breached and steps that are recommended to rectify the scenario, including ensuring all parties are safe.

**1.** Any investigation will normally be conducted by the investigator/Executive unless deemed otherwise by the Board of Directors.

### **Fact Finding**

**2.** The purpose of an investigation is to elicit facts, not to disseminate allegations, and make recommendations to rectify the scenario.

**3.** Written details of a formal grievance provided by the complainant should be specific and it is the right of the respondent to know exactly what the allegation is.

**4.** The respondent should be allowed reasonable time to provide a considered response to the allegation. This written response should normally be provided within 10 working days of the respondent being notified of the allegation.

**5.** The complainant, the respondent and any support people will be informed of the need for confidentiality.

**6.** The complainant's grievance, the respondent's reply and the details of any actions taken by the complainant in attempts to conciliate at an earlier stage will form the basis of an investigation.

7. Where there is disagreement of fact, witnesses who have been appropriately cautioned about confidentiality may also be interviewed. Information should not be unnecessarily disclosed to witnesses.

### **Documentation of Evidence**

8. Information gathered during the investigation, will be documented by the investigator/Executive and together with the other written statements and reports will be used by the investigator/Executive to test the substance of the allegation. The documentation should be summarized to describe points of evidence and step-by-step events.

Points of evidence includes documented details of the problem, including names, dates, times and content of the interaction(s), described specific behaviours or actions, described specific verbal statements and quotes, and witness accounts. Personal feelings should only be included when described by the person with the feelings (I felt...). Evidence does not include: hearsay (i.e. I/we heard, but I did not witness it myself, that ...); innuendo; third party accounts; dishonesty; exaggeration of communications, behaviours, or verbal statements. Nor does it include second hand or third party accounts and opinions of another person's feelings (they felt.... – no one can feel exactly how another person feels, so only the person with the feelings should describe their own feelings).

Omissions of evidence, lack of evidence, or inability to describe facts should also be described. Points of evidence may not be conclusive, but it should be able to determine whether the allegation is true on the balance of probability.

### **Report and Resolution**

9. A report is then written for board decision with recommendation to be considered. These are then reviewed and adopted or revised by the board. The report should outline all steps taken from informal steps to formal investigation and description of points of evidence. Based on evidence and steps taken, new recommendations can then be described and submitted to the Board of Directors.

10. The board can then delegate implementation of any steps to resolve the situation.

### **Exceptions to Procedural Steps**

The organization recognizes that there may arise certain circumstances in which it may be inappropriate for persons to pursue the resolution of a grievance in the steps outlined above. In these situations, the employee may file the written grievance as a first step and the Executive delegate may adopt an alternate process after consultation with the Board Executive. Where a grievance involves the President, the matter will be referred to the Vice President or his/her delegate to avoid further conflict.

## Making Decisions regarding the Grievance

### Complaint's regarding abuse, harassment, discrimination, & unethical conduct

#### ***A. Complaints that do not meet the definition of abuse, harassment, discrimination, &/or unethical conduct***

If the person responsible for managing the complaint process determines that the allegations are frivolous or do not satisfy the definition of abuse, harassment, discrimination, &/or unethical conduct the person informs the complainant that the complaint can not be accepted and provides the reasons for his decision.

In order to respect the principles of procedural fairness, the respondent is notified that a complaint was received, is provided with the allegations as they relate to him or her and the reasons why the complaint was not accepted. If the respondent requires a copy of the complaint, they have a right to obtain it.

Frivolous complaint. A frivolous complaint can be defined, according to the Shorter Oxford English Dictionary, as one “of little or no weight or importance” ... characterized by lack of seriousness;” or “manifestly futile”. The frivolous complaint does not require an investigation to come to the evident conclusion that it is frivolous. The complaint should not proceed any further when, from a simple initial review, it is evident that it will not be possible to substantiate it because the complainant provided no specific allegations or information surrounding the allegations and, upon request, does not provide the necessary information to initiate a proper investigation of precise behaviours, acts, events or displays.

Vexatious complaint or one made in bad faith. A vexatious complaint, or one made in bad faith, is about intent and may only be determined through an investigation. This investigation would seek to determine if either the complaint was

- made intentionally for the purpose of vexing and annoying or embarrassing a person or
- the complaint was not calculated to lead to any practical result; or
- there is evidence of bad faith on the part of the complainant indicating an intention to mislead or if there is the presence of ill-will.

#### ***B. Complaints that meet the definition of abuse, harassment, discrimination, &/or unethical conduct***

If the complaint meets the definition of abuse, harassment, discrimination, &/or unethical conduct, the person responsible for managing the complaint process informs the complainant in writing, that the complaint is deemed admissible. The investigator also informs the respondent in writing that a complaint has been received. The respondent is provided with a copy of the allegations and is given an opportunity to respond to the

allegations in writing. The parties' managers are made aware of the situation, if appropriate, and are provided with the information on a need to know basis so that they can support the parties, manage the impact on the team and keep operations running smoothly.

Admissible complaints. For a complaint to be deemed admissible, the different elements of the definition should be present:

- The respondent displayed a potentially improper and offensive conduct;
- The behaviour was directed at the complainant;
- The complainant was offended or harmed;
- The respondent knew or reasonably ought to have known that his or her behaviour would cause offence or harm;
- The behaviour occurred in the workplace or at any location or any event related to work.

Repetitious behaviour versus single event. It is important to consider the severity and impropriety of the behaviour (act, comment or display) in the circumstances and context of each situation.

Harassment & Bullying. Essentially, the definition of harassment means that more than one act or event need to be present in order to constitute harassment and that taken individually, this act or event need not constitute harassment. It is the repetition that generates the harassment. In other words, workplace harassment consists of repeated and persistent behaviours towards an individual to torment, undermine, frustrate or provoke a reaction from that person. It is a behaviour that with persistence, pressures, frightens, intimidates or incapacitates another person. Each behaviour, viewed individually, may seem inoffensive, however, it is the synergy and repetitive characteristic of the behaviours that produce harmful effects.

Please note that one single incident can constitute harassment when it is demonstrated that it is severe and has an important and lasting impact on the complainant.

Discrimination. Discrimination is treating another person differently based on ascribed characteristics.

Abuse. Abuse is defined as:

- emotional (attack on the person's self-concept and self-worth, including intentional rejection, isolation from others, threats, humiliation, unrealistic expectations, or inappropriate accusations/criticism, negative exposure to someone with a mental or emotional condition),
- physical (trauma or injury to any part of a person's body), or
- sexual (non-consensual exposure or subjection of a person to sexual contact, activity or behaviour,

- non-touching” activities (e.g. obscene phone calls/conversations, indecent exposure or exhibitionism, non-consensual masturbation in front of a person, deliberate exposure to others engaged in sexual activities, exposure to any forms of pornographic material)
- non-consensual “sexual touching” activities (e.g. fondling a person, making a person touch another person’s genital area, or sexual intercourse)
- “sexual exploitation” (e.g. engaging a child for prostitution, using a child in pornography or luring a child via the Internet for sexual purposes)).

Intention. In order to conclude that harassment, abuse, or discrimination occurred, the intent of the respondent to cause offence or harm by his/her acts, comments or displays does not need to be demonstrated; it is the impact on the other person that is taken into account. However, if this intent was present and can be demonstrated, it will be a factor in the determination of the corrective or disciplinary measures.

Reasonableness. To determine if a person ought to have reasonably known that the behaviour was improper, we must ask what a reasonable person, well informed of all the circumstances and finding himself or herself in the same situation as that of the complainant, would conclude. The behaviour in question is not only assessed by the impact or effect on the person, but it is also assessed against a reasonably objective standard. Did the behaviour exceed the reasonable and usual limits of interaction in the workplace? Would a reasonable person be offended or harmed by this conduct?

Sexual Harassment. In the case of alleged sexual harassment, it is also important to note that a single incident may be viewed to be more significant in circumstances when the parties’ relationship at work is one where the respondent has influence or power over the complainant with regard to career advancement, performance review, work assignment and when the incident(s) leads to adverse job related consequences for the complainant.

## Consequences

Ideally, the complaint can be resolved using informal means. Informal resolution should always be encouraged over a formal complaint process and use of harsh consequences. However, not all incidents can be resolved in this manner. The consequences and actions that are recommended to, and implemented by, the Board of Directors should match the severity of the events.

A wide range of solutions should be sought and recommended before harsh consequences are implemented.

In extreme circumstances, the following consequences related to circumstances can be recommended.

Violence & Safety concerns. Incidents of violence including alleged threats should be handled through the *Alberta Labour Codes*. Assaults, including sexual assault and criminal harassment are subject to the *Criminal Code* and such cases should be promptly referred to the appropriate authorities.

In cases where personal or physical safety is an issue, persons perpetrating the events may be immediately removed from the workplace, or remote workplaces, and may be banned from return until an investigation has occurred. In extreme circumstances, legal action by the organization may be taken (i.e. restraining order).

Concerns regarding the best interests of the organization. Person(s) found to be in breach of organizational policies, contributing to the breach of policies, encouraging the breach of policies or involved with frivolous or vexatious complaints, may be found to be acting against the best interests of the organization.

Termination and banning individuals. Termination and banning individuals from volunteering or work for the organization may occur for clear evidence of breach of policies such that the persons are acting against the best interests of the organization, including policies directly related to abuse, harassment, discrimination, grossly unfair treatment of others, unethical behaviours, unprofessional behaviours, or unprofessional treatment of others.

Censorship. In cases where persons are found to be acting against the best interests of the organization, corrective actions may include any options, including those above, but also include censoring communication within the organization and in medias controlled by the organization.