

PRS Matters – Understanding Human Rights Complaint Processes

Respect for human rights is the law. Under [Ontario's Human Rights Code](#) (the Code), employers and unions must make sure they provide inclusive and non-discriminatory environments. Harassment and discrimination are violations of the law, and organizations that fail to take adequate steps to prevent and address them may be held liable. It is for this reason that every school board in the province has a mechanism for addressing human rights complaints.

There are many challenges associated with navigating complaint processes. While this document provides an overview, it is not a comprehensive guide. Please contact your ETFO local or provincial staff in Professional Relations Services (PRS) for help as soon as you become involved with a human rights complaint.

Is it a human rights matter?

Individuals have the right to equal treatment and opportunities, without discrimination or harassment, in the [protected social areas and grounds](#) covered by the Code. However, not all unfair treatment and not all harassment is covered. The treatment or harassment must have occurred within a covered area, such as employment, and be connected to a protected ground in order for it to be investigated as a human rights complaint. The onus is on the complainant to demonstrate the connection between the adverse treatment and the protected ground.

Consult the PRS Matters Bulletin [The Ontario Human Rights Code – Right or Requirement?](#) to learn more.

How are members involved?

Members may be involved in a board human rights investigation in a number of different ways:

Complainant – the individual who experienced harm and brought forward the complaint.

Respondent – the individual who is alleged to have perpetuated the harm.

Witness – an individual who has first-hand knowledge of the incident(s) being investigated.

If you are considering filing a human rights complaint, first contact your ETFO local and/or PRS. It will be important to review the relevant board policies and procedures to determine if the conduct in question is appropriately addressed through the board's human rights complaint process.

Based on this review, it will be up to you to decide if you want to move forward, and to write and submit the complaint to the appropriate individual, office, or department as indicated in the school board's human rights complaint process.

What is ETFO's role?

Union representation is available to members who are involved in human rights investigations, whether as a complainant, respondent, or witness. Contact your local as soon as you become aware

of your involvement in a human rights investigation. You are encouraged to have a representative from your local attend any meetings or interviews you have with the investigator.

Your local can also help address any questions you may have regarding the board's human rights complaint process.

The following questions may help guide your discussion:

- Where can I find the relevant board policies and procedures relating to human rights complaints?
- Are there any early resolution supports and processes available?
- Are there grounds for a possible grievance relating to my human rights concern?
- Is it appropriate to file a [Workplace Safety and Insurance Board \(WSIB\) claim](#)?
- What is the Human Rights Tribunal of Ontario (HRTO), and [what should I know about it](#)?

Who investigates human rights complaints?

The individual or board department responsible for overseeing the human rights complaint process can vary from one board to the next. There may be an arm's length human rights office that takes on this responsibility, or it may fall to the equity department or human resources/labour relations.

In some cases, boards may refer a human rights investigation to an external investigator. These individuals are not board employees and are often lawyers with expertise in human rights and/or employment matters.

When an investigation is referred to an external investigator, it may appear that the matter in question is being escalated to a higher level. However, such referrals are often made due to a lack of capacity at the board level. This could be related to a number of factors, including current workload, complexity of the complaint, or potential for perceptions of bias. The investigation will still follow the same process outlined in the board's human rights complaint procedure, and your ETFO local representative will continue to support you.

What does an investigation entail?

The investigator will typically interview the complainant, any witnesses, and the respondent prior to determining whether a human rights violation complaint is substantiated. Participants will be directed to maintain confidentiality regarding the investigation and should follow this direction. Members are always able to discuss the investigation with their union representative.

It is not uncommon to feel stress, anxiety, or other effects due to participation in a human rights investigation, regardless of if you are in the role of complainant, respondent, or witness. You are encouraged to access any supports – particularly mental health supports – available to you.

What happens when the investigation is complete?

Following a human rights investigation, the findings will be shared with both the complainant and the respondent and will include the investigator's determination as to whether a human rights violation has been substantiated, and why or why not. This decision is made on the basis of a standard of proof referred to as a "balance of probabilities." This is a civil standard of proof just as "beyond a reasonable doubt" is the standard of proof for criminal cases. When a complaint is substantiated on a balance of probabilities, it means that there is evidence to support that the alleged comments or

conduct "more likely than not" took place, and that the behaviour represented discrimination within the meaning of the Code.

Information regarding any corrective action that has been taken or that will be taken as a result of the investigation will be shared with the complainant, but details about any disciplinary outcomes imposed on the respondent are confidential and will not be shared.

If you are involved in a human rights investigation and have concerns about the findings and/or outcome, discuss them with your local to determine possible next steps.

For more information

- Find your [ETFO local](#)
- Contact [Professional Relations Services](#) at 416-962-3836 or 1-888-838-3836
- Visit the [Ontario Human Rights Commission's website](#)
- Read these related PRS Matters Bulletins
 - [The Ontario Human Rights Code – Right or Requirement?](#)
 - [Reporting Workplace Accidents – Workplace Safety and Insurance Board](#)

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