

Resolving Competing Human Rights Policy



1. ORGANIZATIONAL COMMITMENT

The management of _____ is committed to maintaining a diverse and fair work environment where everyone's human rights are respected, and where discrimination and harassment are not tolerated.

2. PURPOSE

_____ also recognizes that situations may arise where the human rights of different individuals come into conflict with each other. The purpose of this Policy is to establish a process to recognize and address such conflicts fairly, quickly and effectively in a manner that:

- Shows dignity and respect for all involved.
- Encourages mutual recognition of interests, rights and obligations.
- Facilitates maximum recognition of rights, wherever possible.
- Helps parties understand the scope of their rights and obligations.
- Addresses stigma and power imbalances and helps give marginalized individuals and groups a voice.
- Encourages cooperation and shared responsibility for finding agreeable solutions that maximize enjoyment of rights by all.

3. DEFINITION

As used in this Policy, "competing human rights" involve situations where exercises of an individual's or group's human rights and freedoms constitute or may constitute interference with the exercise of the human rights and freedoms of another individual or group.

Example: Employee A is visually impaired and needs to have a guide dog at work to do his job; Employee B, his co-worker, is severely allergic to dogs and can't do her job where a dog is present.

4. ROLES AND RESPONSIBILITIES

Under [province's] human rights code, it's illegal to discriminate against individuals regarding employment on the basis of [list grounds under your jurisdiction, e.g., race, sex, religion, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, marital status, family status, age, record of offences or political belief.] As an employer, _____

Has ultimate responsibility for maintaining an inclusive environment that's free from discrimination and harassment and where everyone's human rights are respected in compliance with this law. Part of this duty is to take steps to prevent and respond to situations involving competing rights.

Ensuring a discrimination-free workplace where all rights are respected and competing human rights situations are resolved fairly is everybody's responsibility, including:

- _____ Management: [List].
- _____ HR Director: [List].
- Supervisors: [List].
- Employees: [List].
- Others: [List].

5. RESOLUTION PROCESS

- Employees may direct their discrimination/competing human rights concerns or complaints to [designate a person or panel that's in a position to act objectively and independently].
- _____ will make every effort to maintain confidentiality through the complaint and resolution process and no employee will be penalized, disciplined or suffer any other adverse treatment, reprisal or recrimination for raising a complaint or concern under this Policy.
- _____ will thoroughly investigate all complaints and concerns in the following manner. [Describe the investigation procedure, including who will investigate and how long the process will take.]
- Complaints and concerns brought under this Policy may be resolved via the _____'s Alternative Dispute Resolution process [describe, e.g., negotiation, conciliation, mediation, arbitration, etc.].
- _____ will de-brief individuals who report competing human rights claims or concerns under this Policy and make available the following means of assistance and support [describe].

6. RESOLUTION PRINCIPLES

_____ retains authority to resolve competing human rights situations. In determining resolutions that are fair and equitable to all involved, _____ will be guided by the following principles:

- No rights are absolute, i.e., all rights are subject to appropriate limits and compromise necessary to accommodate the rights of others.
- There is no hierarchy of rights, i.e., all human rights are equally important and nobody's right is inherently superior to another's.
- Even where a concern is based on a recognized human right, the extent of that right in a particular circumstance is determined by the circumstances of the situation, including the rights of others involved.
- In all competing human rights cases, _____ will seek solutions that allow each side to exercise their rights without interference. Where this is

impossible, _____ will follow the next best approach of finding a compromise that weighs all interests and minimally interferes with the rights of individuals involved.

- In weighing competing human rights, _____ will consider not just the letter of the law but the values and societal objectives the law is designed to promote, e.g., the avoidance of racial stereotypes or the special needs of a disadvantaged group.
- In weighing competing human rights, _____ will also consider not just whether a valid right has been asserted but whether the complained of conduct or situation actually interferes with the right and, if so, to what extent. In general, _____ will feel a stronger compulsion to intervene to protect a right that it believes has been subject to substantial interference.
- In situations involving substantial interference with human rights of more than one individual, _____ will afford equal respect to each set of rights but distinguish between the core and periphery of the rights involved, i.e., whether the interference affects a fundamental as opposed to an incidental part of the right.

Example: during a company meeting, employee a, a white supremacist, makes anti-semitic remarks that offend his jewish co-workers. Both sides can assert personal rights in this situation. But whereas protection against anti-semitism is a core element of the latters' religious freedoms, the right to express personal opinions in a company meeting is peripheral to employee a's freedom of expression.

7. OTHER LEGAL RIGHTS

This policy is designed to provide a framework that individuals who feel that they have suffered discrimination or other interference with their personal rights in the course of their employment with _____ can use to assert and obtain a fair and satisfactory resolution of their claims

Internally. The policy is in no way meant to replace or limit the rights of individuals to seek redress of their complaints externally, such as by bringing a:

- Human rights complaint with the [jurisdiction] human rights commission;
- A health and safety complaint with the [jurisdiction] occupational health and safety agency;
- A labour complaint with [jurisdiction] labour relations board; and/or
- A grievance under the _____ collective agreement.