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Workplace Conflict?

Making the Right Choice

A Guide for Federal Public Servants

Canada

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The Recourse Branch welcomes comments on the clarity and usefulness of this booklet. Please contact:

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Can this guide help you?

This guide applies to federal public servants employed by Treasury Board. If you aren't sure if Treasury Board is your employer, ask someone in the human resources branch of your workplace (department or agency).

Dealing with conflict in your workplace

No part of life is conflict free. We don't always agree with the people around us — our families, friends, neighbours or the people we work with every day. And like any conflict, a problem at work is best dealt with right away.

In many cases, you can solve the problem on the spot simply by speaking frankly to the person or people involved. Many people, when told that they are causing a problem, appreciate being given the chance to be part of the solution.

If the direct approach doesn't work, involve your manager or talk to someone in your workplace human resources branch. They can set out your options for resolving a dispute within your workplace. Trying to resolve the conflict within your workplace may take less time, it may be easier to preserve your working relationship and you may develop skills to deal with future conflicts more easily.

Your workplace may offer you an informal approach, such as discussions or mediation (when people involved discuss the problem with someone trained to help you find a solution); or you may want to try a more formal approach, such as filing a grievance or requesting an internal investigation. Your union representative may also be able to help.

Getting help outside of your workplace

You may have already tried to find a solution within your workplace, but aren't satisfied. Or the situation may require that you go directly to another organization. In almost all cases, you have the right to go directly to one of the following organizations:

- Canadian Human Rights Commission
- Office of the Commissioner of Official Languages
- Office of the Information Commissioner of Canada
- Office of the Privacy Commissioner of Canada
- Public Service Commission's Recourse Branch
- Public Service Staff Relations Board

This booklet helps you decide which organization to go to, and gives you general information about how they will deal with your problem. For more information, contact the organization directly. Information on how to contact each organization is listed at the end.

Which organization should I contact?

Because each situation is different, it can be difficult to know which organization to go to for help. The following chart is a very general guide to the kinds of problems each organization deals with. **It is not complete.** Before you contact an organization, be sure to read the more detailed information in this booklet.

If you believe ...

Contact ...

you have been discriminated against (including harassed) because of:

the Canadian Human Rights Commission (page 6)

- race
- national or ethnic origin
- colour
- religion
- age
- sex (including pregnancy and childbirth)
- marital status
- family status
- pardoned conviction
- physical or mental disability (including dependence on alcohol or drugs)
- sexual orientation

your language rights in the workplace aren't being respected

the Office of the Commissioner of Official Languages (page 8)

your employer won't release information you have requested under the *Access to Information Act*

the Office of the Information Commissioner of Canada (page 10)

your employer has improperly collected, used, disclosed, stored, disposed of or denied you access to your personal information, such as employment records

the Office of the Privacy Commissioner of Canada (page 11)

If you believe ...

Contact ...

you wish to complain about a competition or how a position is being filled

the Public Service Commission's Recourse Branch (page 13)

after your grievance has been dealt with at the final level of the grievance process you still believe:

the Public Service Staff Relations Board (page 15)

your employer is incorrectly applying or interpreting your collective agreement

you have been unfairly demoted, suspended, fined or fired

Canadian Human Rights Commission

The *Canadian Human Rights Act* applies to all federal government departments, Crown corporations, chartered banks, airlines, telecommunications and broadcasting organizations, and inter-provincial transportation companies. Anyone who believes that they have been discriminated against while working for, or receiving goods and services from, any of these organizations can file a complaint with the Canadian Human Rights Commission.

Can the Commission help you?

You may contact the Commission if you believe you have been discriminated against because of your:

- race
- national or ethnic origin
- colour
- religion
- age
- sex (including pregnancy and childbirth)
- marital status
- family status
- pardoned conviction
- physical or mental disability (including dependence on alcohol or drugs)
- sexual orientation

Discrimination includes:

- all forms of harassment (harassment includes unwanted physical advances, and comments and insults about your race, religion, sexual orientation, disability or origin);
- policies or practices that seem neutral but are in fact discriminatory; and
- inequities in pay between men and women who are performing work of equal value.

What will the Commission do?

- First, the Commission will decide if it is the right organization to deal with your complaint. If it isn't, the Commission will refer you to another organization that might help.
- If your complaint is accepted, a mediator may be appointed to try and help the parties settle the matter. If the parties refuse to participate in mediation, or the mediation is unsuccessful, an investigation will be carried out and the investigation findings will be submitted to the Commission.
- The Commission may:
 - dismiss the complaint if there is not enough evidence of discrimination;
 - appoint a conciliator to resolve the complaint; or
 - send the complaint to the Canadian Human Rights Tribunal, which will decide if discrimination did occur.

Office of the Commissioner of Official Languages

The Commissioner of Official Languages is an ombudsman who is charged, under the *Official Languages Act*, with protecting:

- the public's right to use English or French to communicate with and use the services of federal institutions;
- the right of public servants to work in either official language in certain regions (see box on page 9); and
- the right of English- and French-speaking Canadians to the same employment and career advancement opportunities in federal institutions.

Can the Commissioner of Official Languages help?

You may contact the Commissioner if you work in a bilingual region and aren't allowed to work in the official language of your choice. Your employer must make the following available in both official languages:

- supervision;
- work instruments, including information technology systems (e.g., manuals, computer software, Intranet);
- personal services, such as pay and benefits, health services, and career and personal counselling;
- central services, including administrative, staffing, financial, evaluation and audit, library, and legal services; and
- staff or committee meetings, unless everyone at the meeting agrees to work in one language.

What will the Commissioner do?

- The Commissioner's staff will decide whether or not your complaint falls within the Office's jurisdiction.
- If it does, an investigation will begin. Your department or agency will be informed of the complaint, given the details and asked to explain.
- At the end of the investigation, the Commissioner will give your department or agency recommendations for resolving the situation.

Regions designated as bilingual for work are:

- the National Capital Region
- New Brunswick
- parts of Northern and Eastern Ontario
- the Montreal area
- parts of the Eastern Townships, of the Gaspé and of West Quebec

To find out if you work in a bilingual area, contact the branch of the Commissioner of Official Languages closest to you (for phone numbers, go to page 17).

Office of the Information Commissioner of Canada

The Information Commissioner is an ombudsman appointed by Parliament to investigate complaints that the government has violated the *Access to Information Act*.

The *Act* gives Canadian citizens, as well as people and corporations present in Canada, the right to have access to information in federal government records. However, information that could cause harm if released, such as information that relates to national security or a criminal investigation, as well as personal information about someone else, is not accessible.

Can the Information Commissioner help you?

You may go to the Commissioner for help if you requested information under the *Access to Information Act* and the department or agency:

- wouldn't give you the information you asked for;
- asked you to pay too much for copied information;
- took an unreasonable amount of time (more than 30 days unless they requested an extension) to give you the information; or
- gave you information that wasn't in the official language you asked for, or took an unreasonable amount of time to translate the information.

What will the Commissioner do?

- An investigator will give you an opportunity to present your point of view. The investigator will also get the department or agency's point of view and may try to help you resolve the complaint informally.
- If no early solution is found, the Commissioner will make a finding and recommendation(s) based on:
 - the results of the investigation;
 - your representations;
 - the department or agency's representations; and
 - the representations of anyone else affected by the release of the information.
- If the Commissioner finds that you have a right to see the information, the Commissioner will recommend that your department or agency release it to you. The Commissioner may also make recommendations about time limits and the cost of copied material.

Office of the Privacy Commissioner of Canada

The Privacy Commissioner is an ombudsman appointed under the *Privacy Act* to investigate complaints that the federal government:

- improperly collected, used, disclosed, stored or disposed of personal information; or
- denied the rights of individuals to obtain access to their personal information.

The *Act* requires the federal government to:

- inform individuals of the purpose for which personal information is being collected and obtain their consent before collecting, using or disclosing that information and prohibits the government from using or disclosing the information for any other purpose.¹

The *Act* establishes the rights of individuals to:

- examine or obtain copies of the personal information kept about them by federal government agencies (subject to specific exceptions such as national security or criminal investigation);
- ask to correct any errors or, in the case of a refusal, to note on the record itself that the accuracy of a record is contested;
- know why the information is collected, how it will be used, and who will be allowed to see and use it.

The *Act* protects your employment records, except for information in these records that relates directly to your job, such as your title, classification and salary range for that position, work address and phone number. Any other information about your job that is personal, such as your salary or medical information, is protected by the *Act*.

¹Some exceptions apply. For information about these exceptions, speak to an Inquiries Officer at the Office of the Privacy Commissioner.

Can the Privacy Commissioner help?

An Inquiries Officer at the Office of the Privacy Commissioner can provide information about your rights under the *Privacy Act* and explain the exceptions that apply to its various provisions.

You may take a complaint to the Privacy Commissioner if:

- you were denied some, or all, of the personal information you requested;
- the department or agency you applied to failed to respond within 30 days of receiving your application, or asked for an extension of time that you think is unreasonable;
- you found information on your file that you think is incorrect, but the department or agency will not allow you to correct it or to add your version of the facts;
- you believe your department is requesting too much personal information, or is using the personal information already collected for a purpose different from the purpose for which it was originally collected; or
- you believe the institution has violated time limits in the *Act* — either by keeping personal information it no longer needs, or by destroying personal information prematurely, before an inquiry or complaint process was exhausted.

What will the Privacy Commissioner do?

- If you make an access complaint, the Commissioner's staff may go to the department or agency and examine any personal information, including information that you weren't given, to determine whether your right to see or obtain copies of your information was respected.
- If you make a privacy complaint, the Commissioner's staff can meet with department or agency staff to determine who, why and how information was collected, used, retained or destroyed and whether it was done in compliance with the *Act*.
- Although the Privacy Commissioner cannot make binding orders, he has the powers of a Federal Court judge to compel testimony and enter premises to examine evidence.
- The Privacy Commissioner attempts to resolve disputes through negotiation and can make recommendations to organizations about their information-handling practices.

Public Service Commission's Recourse Branch

As part of the Public Service Commission, the Recourse Branch, which includes Appeal Boards, investigates complaints and hears appeals to ensure that staffing is carried out in accordance with the *Public Service Employment Act*.

The Recourse Branch offers informal methods of resolving disputes, such as mediation and early intervention in appeals, to help you find a solution without using more formal processes.

Can the Recourse Branch help?

You can ask the Recourse Branch to look into three kinds of situations:

1. Appointments

You may complain about an appointment if you believe the person chosen was not the best-qualified candidate or didn't meet the required qualifications, and you were:

- an unsuccessful candidate in a competition (open to the public or limited to employees); or
- a possible candidate for an internal selection made without a competition.

2. Deployments

You may complain if you believe that a deployment:

- was not authorized by, or made in accordance with, the *Public Service Employment Act*; or
- constituted an abuse of authority (e.g., you were intimidated, threatened or coerced.)

You must either be the person deployed or be in the work unit to which the deployment is being made.

Note: Before you take a complaint about a deployment to the Recourse Branch, you must first try to resolve the dispute within your department. The Recourse Branch will accept your complaint only if you are not satisfied with your department's or agency's response.

3. Other Staffing Problems

The Recourse Branch may also investigate other types of complaints including:

- use of eligibility lists
- administration of priority status
- conducting a reverse order of merit

What will the Recourse Branch do?

- The Registrar will decide if they can deal with your problem.
- The Recourse Branch will offer, or you may ask a Recourse Officer, to help resolve the dispute informally.
- If an informal solution can't be found, another Recourse Officer will arrange a hearing, a fact-finding meeting or a teleconference where both sides will have a chance to be heard.
- The Recourse Officer will make a decision as to whether the Act was respected. If corrective action is necessary, the appropriate officer will then help to find a solution to resolve the problem.

Public Service Staff Relations Board

Under the *Public Service Staff Relations Act*, the Public Service Staff Relations Board has broad powers which include the right to adjudicate certain grievances dealing with collective agreements, major disciplinary action, demotion or termination of employment.

The Board also provides mediation services to help the parties settle a dispute informally, without resorting to formal processes.

Can the Board help?

Note: Before your grievance may be referred to the Public Service Staff Relations Board, it must be processed through the final level of the grievance procedure within your department or agency.

You can take your grievance to the Board if:

- your employer isn't respecting your collective agreement (e.g., your employer is refusing to pay overtime).
Note: A grievance relating to a collective agreement must have the support of your bargaining agent before it can be referred to adjudication.
- your employment has been terminated or you have been demoted or subjected to disciplinary action resulting in discharge, suspension or a financial penalty.
Note: These grievances may be referred to the Board by all employees, including those who are not represented by a bargaining agent.

What will the Board do?

- With the agreement of both sides, the Board will attempt to find an acceptable informal solution.
- If an informal solution can't be found, the Board will assign an adjudicator to your case. The adjudicator will hold a hearing where both sides will have a chance to be heard.
- The adjudicator will decide whether your rights were respected. The adjudicator may order corrective action to resolve the problem.

How to reach us

Canadian Human Rights Commission

Internet: www.chrc-ccdp.ca

E-Mail: info.com@chrc-ccdp

National Capital

344 Slater Street, 8th Floor

Ottawa, Ontario K1A 1E1

Phone: (613) 995-1151

Toll-free: 1-888-214-1090

TTY: 1-888-643-3304

Fax: (613) 996-9661

Regional Offices

Atlantic

Halifax (902) 426-8380

Toll-free: 1-800-999-6899

TTY: 1-888-643-3304

Fax: (902) 426-2685

Quebec

Montréal (514) 283-5218

Toll-free: 1-800-999-6899

TTY: 1-888-643-3304

Fax: (514) 283-5084

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Toronto (416) 973-5527

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TTY: 1-888-643-3304

Fax: (416) 973-6184

Manitoba, Saskatchewan and Northwestern Ontario

Winnipeg (204) 983-2189

Toll-free: 1-800-999-6899

TTY: 1-888-643-3304

Fax: (204) 983-6132

Alberta and Northwest Territories

Edmonton (780) 495-4040

Toll-free: 1-800-999-6899

TTY: 1-888-643-3304

Fax: (780) 495-4044

British Columbia and Yukon

Vancouver (604) 666-2251

Toll-free: 1-800-999-6899

TTY: 1-888-643-3304

Fax: (604) 666-2386

Office of the Commissioner of Official Languages

Central Office (Ottawa)

Tel.: (613) 996-6368
Fax: (613) 995-0729

Regional Offices

Atlantic (Moncton, New Brunswick)

Tel.: (506) 851-6994
Toll-free: 1-800-561-7109
Fax: (506) 851-7046

Manitoba and Saskatchewan (Winnipeg, Manitoba)

Tel.: (204) 983-2111
Toll-free: 1-800-665-8731
Fax: (204) 983-7801

Quebec (Montréal, Quebec)

Tel.: (514) 283-4996
Toll-free: 1-800-363-0628
Fax: (514) 283-6677

Alberta, British Columbia, Northwest Territories and Yukon (Edmonton, Alberta)

Tel.: (780) 495-3111
Toll-free: 1-800-661-3642
Fax: (780) 495-4094

Ontario (Toronto, Ontario)

Tel.: (416) 973-1903
Toll-free: 1-800-387-0635
Fax: (416) 973-1906

Office of the Information Commissioner of Canada

112 Kent Street, 22nd Floor
Ottawa, Ontario K1A 1H3

Tel.: (613) 995-2410
Toll-free: 1-800-267-0441

Office of the Privacy Commissioner of Canada

112 Kent Street, 3rd Floor
Ottawa, Ontario K1A 1H3

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Toll-free: 1-800-267-0441

Public Service Commission's Recourse Branch

Internet: www.psc-cfp.gc.ca/audit/internet/recourse.htm

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