



“Sometimes it takes a knowledgeable and impartial expert to help people chart the path to a creative settlement. That’s why the Commission will turn to conciliation when circumstances are ripe for a solution.”

— Mary Gusella, Chief Commissioner,
Canadian Human Rights Commission

Conciliation and Human Rights Complaints

The Canadian Human Rights Commission deals with complaints of discrimination filed against federally regulated employers, unions and service providers. The Commission provides several avenues for resolving complaints, ranging from investigation to mediation and conciliation.

This brochure deals with conciliation. A mediation brochure and other leaflets on the complaint process are also available on request or on the Commission’s website.

What is conciliation?

Under the *Canadian Human Rights Act*, the Commission has the power to appoint a conciliator and require parties to participate in direct discussions and negotiations on the issues. In most cases, it is an opportunity for parties to reach a settlement before the Commission sends the dispute to the Canadian Human Rights Tribunal.

How does conciliation work?

When a conciliator is appointed, the parties:

- Discuss the complaint and the possibilities for resolution with a trained conciliator.
- Decide whether to meet in the same room or make other arrangements that are acceptable to all.
- Negotiate in good faith within a short time period to avoid undue delays.
- Keep discussions confidential unless a party consents to release its own information.
- Decide whether to resolve the dispute in conciliation or proceed with the Canadian Human Rights Tribunal process.

Conciliation allows parties to consider the facts of the case and the investigator’s findings and recommendations. It can help them deal with circumstances that led to

the complaint. And it gives parties an opportunity to craft creative solutions and avoid further delays.

How is conciliation different from mediation?

Mediation is voluntary while conciliation is mandatory. The Commission encourages use of mediation early in the complaint process, although it is available at any stage up to Tribunal hearings. Conciliation generally takes place after an investigation of the facts, before a case is referred to the Tribunal. However, the Commission can order conciliation at an earlier stage. The roles of the conciliator and the mediator are quite similar. But, unlike mediators, conciliators give direct feedback on the strengths and weaknesses of arguments, opinions and proposals.

Who are the conciliators and what do they do?

Conciliators work for the Commission. They have training and experience in dispute resolution and human rights issues. Conciliators:

- Discuss with the parties how the conciliation process will unfold, the location of negotiations and other related matters.
- Guide discussions, providing feedback to parties on the strengths and weaknesses of their proposals.

- Provide information on the *Canadian Human Rights Act*, Commission policy and legal precedents.
- Point out to the parties what the Commission considers is appropriate from a human rights perspective.
- Help parties, if they reach a settlement, to prepare settlement documents that address the public interest.

Conciliators have no authority to make decisions. And they cannot be called as witnesses in any tribunal proceeding.

What is “the public interest” in human rights complaints?

The Commission’s work involves eliminating and preventing discrimination. All resolutions reached during conciliation must be consistent with this fundamental goal. For example, where a particular policy or practice may also affect others, the conciliator will ensure that any settlement of the complaint includes an appropriate remedy that is in the public interest.

What might a settlement include?

The purpose of the *Canadian Human Rights Act* is not to punish people but to provide remedies for human rights problems and prevent them from happening again. If parties jointly decide on reaching a settlement,

they might choose from a broad range of remedies—non-monetary and monetary. These include apologies, training, lost wages, reinstatement in a position or financial compensation. If the complaint involves a discriminatory policy, the settlement could include changing the policy or putting new procedures in place.

What happens when parties reach a settlement?

The conciliator helps parties prepare a written agreement which describes what each party agrees to do to resolve the matter. The signed agreement is submitted to the Commission for review to ensure it is fair and in the public interest. Normally, the Commission will approve settlements in a matter of days. The Commission monitors settlements and, if required, can enforce them through the courts.

What happens when there is no settlement?

If conciliation takes place after an investigation has been completed, the unresolved case will be referred to the Canadian Human Rights Tribunal. If conciliation happens earlier in the investigation process, the Commission may decide on further investigation, dismissal or referral to the Tribunal. Even if a complaint isn’t settled at conciliation, the parties can agree to a statement of facts in order to save time later in the process.

Other leaflets in this series:

- Filing a Complaint
- The Complaint Process
- Mediation and Human Rights Complaints
- Other Redress Procedures
- Investigation.

For further information on conciliation, please contact:

Commission regional offices in Halifax, Montréal, Toronto, Winnipeg, Edmonton and Vancouver, toll free at 1-800-999-6899 (addresses available on the Commission’s website);

or

National office at 344 Slater Street, 8th floor, Ottawa, Ontario K1A 1E1. Telephone: (613) 995-1151, or toll free 1-888-214-1090. TTY: 1-888-643-3304.

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