

Administrative Procedure 170

WORKPLACE VIOLENCE**Background**

All individuals within the Division have the right to a safe and caring environment free of violence. All staff members must support a violence-free workplace, demonstrate respect to all with whom they come in contact and protect the dignity, worth and human rights of every person. Any act of violent conduct at work, whether on Division premises or at Division-sponsored activities, is unacceptable and will not be tolerated. The Division regularly completes workplace violence hazard assessments.

The purpose of this procedure is to ensure that:

- ◆ Individuals are aware of and understand that acts of workplace violence are considered a serious offence for which necessary action will be imposed;
- ◆ Those subjected to acts of workplace violence are encouraged to access any assistance they may require in order to pursue a complaint; and
- ◆ Individuals are advised of available recourse if they are subjected to, or become aware of, situations involving workplace violence.

Definitions

For the purpose of this administrative procedure, violence is defined (as per the Occupational Health and Safety Act) as “whether at a worksite or work related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury.”

Examples include, but are not limited to:

- ◆ Threatening behaviour such as shaking fists, destroying property or throwing objects;
- ◆ Verbal or written threats that express an intent to inflict harm;
- ◆ Physical attacks;
- ◆ Any other act that would arouse fear in a reasonable person in the circumstances.

A person in authority is defined as a supervisor or manager who has responsibility for completing performance assessments and/or initiating disciplinary actions on an individual.

Guidelines

1. No employee or other individual shall engage in workplace violence or allow or create conditions that support workplace violence.
2. Prior to filing a formal complaint, any individual subjected to workplace violence (complainant) is encouraged to make it clear to the alleged offender (respondent), directly or with the assistance of a person in authority, that the respondent’s behaviour is unacceptable. Complainants are encouraged to bring incidents of alleged workplace

violence to the attention of a person in authority and to make a complaint on an informal or formal basis where appropriate.

3. Any person in a position of authority who receives a complaint is responsible for ensuring that the complaint is addressed.
4. Complainants shall not knowingly and wilfully submit complaints based on false allegations.
5. Complainants can obtain advice and assistance regarding strategies for confronting violence at an interpersonal level by contacting the Deputy Superintendent or designate who will appoint a resource person to provide assistance.
6. Complaints regarding violence can be resolved through:
 - 6.1 An informal verbal complaint mechanism, which may involve voluntary mediation.
 - 6.2 Filing a formal written complaint with a person in authority.
7. The respondent is entitled to know the name(s) of individual(s) making an informal or formal complaint. In the case of a formal complaint, the respondent shall receive a copy of the letter of complaint outlining the allegations.
8. All reasonable efforts shall be made to respect the confidential nature of a complaint. However, absolute confidentiality cannot be guaranteed owing to the need for an investigation and the need to inform the respondent.
9. Resolution procedures do not take away the right to file a complaint outside the organization with an Occupational Health and Safety officer, the Alberta Human Rights Commission, police, the Alberta Teachers' Association, the support staff association or through civil or criminal court.
10. An employee who reports an injury or adverse symptom resulting from workplace violence or who is exposed to workplace violence is advised to consult a health professional of the employee's choice for treatment or referral.

Procedures

1. Personnel Assisting in a Violence Complaint

1.1 Persons in Authority

Not all incidents of violence require formal complaints before they are addressed.

Where there is a complaint, persons in authority must:

- 1.1.1 Ensure that there is fair treatment for all parties involved.
- 1.1.2 Provide support throughout the complaint process.
- 1.1.3 Protect the complainant against possible reprisals.
- 1.1.4 Assist, if required, in the fact-finding process.

2. Informal Complaints

2.1 Receiving an Informal Complaint

- 2.1.1 The person in a position of authority who receives an informal verbal complaint shall take action to ensure the complaint is addressed within ten (10) working days from the date the complaint is received.
- 2.1.2 The person in a position of authority shall take the following actions:
 - 2.1.2.1 Provide the complainant and respondent with Division procedures.
 - 2.1.2.2 Discuss issues of confidentiality and limits to confidentiality when a complaint is received.
 - 2.1.2.3 Assist the complainant in speaking to the respondent directly, or speak to the respondent on the complainant's behalf to outline the allegations and attempt to resolve the complaint informally.
 - 2.1.2.4 Monitor the status of the complaint to see that it is satisfactorily resolved.

2.2 Voluntary Mediation

- 2.2.1 If the individual in a position of authority is unable to resolve the complaint, the complainant and respondent will be asked whether they are willing to enter into voluntary mediation.
- 2.2.2 Voluntary mediation shall occur within fifteen (15) working days from the date the informal complaint is received.
- 2.2.3 The focus of the mediation process is educational and preventative, rather than punitive.
- 2.2.4 If the complainant and respondent agree, the individual in a position of authority shall act as or appoint a neutral third party acceptable to both.
- 2.2.5 If the informal complaint is not resolved through voluntary mediation, a formal complaint may be filed.

2.3 Outcome of an Informal Complaint

- 2.3.1 If a complainant confronts the respondent directly and resolves the problem at that level, further investigation may be required and/or sanctions may still be applied by the Division.
- 2.3.2 If an individual in a position of authority is asked to speak to the respondent and the behaviour appears to be in violation of Division expectations for employees, further action may be initiated by the person in authority.
- 2.3.3 If the informal complaint is not satisfactorily resolved, a formal complaint may be filed.

NOTE: As part of the informal complaint process, a secured file will be created which includes:

- ◆ The name of the complainant(s) and respondent(s).
- ◆ The nature of the alleged violence.
- ◆ A record of all meetings to date which specifies meeting dates and names of attendees, and includes the nature or details of the discussions.

- ◆ The present disposition of the complaint.

3. Formal Complaint Process

3.1 Making a Formal Complaint

- 3.1.1 A formal complaint made by the complainant to a person in authority must consist of a signed written statement outlining the charges against the respondent, describing the specific incident(s), the dates and any witness(es) who may have been present.
- 3.1.2 A formal complaint may be filed up to three (3) months from the date of the most recent incident cited in the letter of complaint.
- 3.1.3 The complainant is requested to notify the person in authority immediately if a complaint is filed with an Occupational Health and Safety officer, the Alberta Human Rights Commission, police, the Alberta Teachers' Association, a support staff association, or if civil or criminal court action is initiated while the charges are still under review by the Division. The Deputy Superintendent or designate may elect to process the complaint or stay the procedures pending the outcome of the other investigation.

3.2 Receiving a Formal Complaint

- 3.2.1 An individual in a position of authority shall:
 - 3.2.1.1 Accept the formal complaint provided no more than three (3) months has elapsed since the most recent incident outlined in the complaint. The Deputy Superintendent or designate may elect to consider a complaint received after this time.
 - 3.2.1.2 Verify that the charges may represent a violation of Division expectations for employees.
 - 3.2.1.3 Notify and provide a copy of the complaint to the respondent.

3.3 Resolving a Formal Complaint

- 3.3.1 An individual shall be appointed by the Deputy Superintendent to conduct an investigation regarding the complaint. Every attempt will be made, throughout investigative proceedings on the part of all parties concerned, to respect the confidential nature of the information.
- 3.3.2 The complainant and respondent shall have the opportunity to:
 - 3.3.2.1 Provide written submissions to the investigator.
 - 3.3.2.2 Respond to the other party's written submission.
 - 3.3.2.3 Appear before the investigator to provide oral submissions.
 - 3.3.2.4 Respond to one another's statements.
 - 3.3.2.5 Have someone present to provide advice and assistance (i.e., legal counsel, association/union representative, Division office representative).

- 3.3.3 The investigator shall have the right to ask questions of the complainant, respondent and others who may have knowledge of the circumstances that led to the complaint.
- 3.3.4 The investigator's findings shall address all pertinent circumstances, including corrective action to be taken to prevent a recurrence, and shall be detailed in a report to the Deputy Superintendent.
- 3.3.5 Resolution of a formal complaint shall occur within three (3) months of the date on which the complaint was filed.
- 3.3.6 Complaint files will be secured for a period of two (2) years following the resolution and/or last Division procedure pursued by the complainant or respondent. Documents may be retained in a secured location for a period of longer than two (2) years when it is reasonable to do so in the circumstances.

3.4 Outcome of a Formal Complaint

- 3.4.1 If the results of the investigation support allegations in the letter of complaint, a range of sanctions may be imposed on the respondent by the Deputy Superintendent. The sanctions depend upon the nature and seriousness of the offence. The range of sanctions include a verbal warning, a written reprimand with a copy retained in the respondent's file, transfer, demotion, suspension or termination of employment.
- 3.4.2 If the results of the investigation do not support the allegations, the complaint will be dismissed and a letter will be issued indicating that the respondent has been cleared of all allegations. An individual cleared of allegations has the option of requesting that a copy of the letter be placed in the personnel file.
- 3.4.3 If the evidence indicates that the complainant knowingly and wilfully made false allegations in an attempt to cause harm to the respondent, a range of sanctions may be imposed on the complainant by the Deputy Superintendent. The sanctions depend upon the nature and seriousness of the offence. The range of sanctions include: a verbal warning, a written reprimand with a copy retained in the complainant's file, transfer, demotion, suspension or termination of employment.

4. Appeals

- 4.1 Employees who are not satisfied with the action taken with respect to a complaint may appeal the decision to the Superintendent.
- 4.2 Either party has the right to seek civil or criminal redress through the courts or to file a complaint with an Occupational Health and Safety officer, the Alberta Teachers' Association or the Alberta Human Rights Commission.

5. Retaliation

- 5.1 No employee shall take retaliatory action with the intent of dissuading or punishing an individual for participating in the complaint resolution process. Sanctions may be imposed for retaliation.
- 5.2 Retaliation against individuals participating in the complaint resolution process is not to be confused with sanctions imposed for violence or making false allegations.

6. Role of the Deputy Superintendent or designate
 - 6.1 Provide support, information and inservicing to employees with respect to violence and Division procedures.
 - 6.2 On request, help the complainants and/or respondents with advice and discussion on ways to:
 - 6.2.1 Determine whether or not incidents described constitute violence.
 - 6.2.2 Resolve a violence complaint.
 - 6.2.3 Clarify concerns.
 - 6.2.4 Assist in bringing both parties to a meeting where mediation of the complaint or exploration of optional routes toward conflict resolution can be considered.
 - 6.2.5 Facilitate maintenance and ongoing monitoring of the Violence Administrative Procedure.
 - 6.2.6 Assume responsibility for the securing of complaint files following discontinuation/resolution of a complaint.
7. Role of a Person in Authority
 - 7.1 Ensure that the workplace under his/her jurisdiction is free from violence and that complaints of such behaviours are investigated promptly, seriously and in as strictly a confidential manner as possible.
 - 7.2 Speak to the respondent on behalf of the complainant.

References: Section 45, 60, 61 School Act
Occupational Health And Safety Act
Occupational Health And Safety Regulation (AR 62/2003)
Occupational Health And Safety Code (AR 321/2003)
Criminal Code