

FAQs - Human Rights Commissioner's Office (HRCO)

Contents

What is the Human Rights Commissioner's Office or HRCO?	3
What kind of complaints does the HRCO deal with?	3
How long do I have to make a complaint?	6
How do I contact the HRCO?	7
How do I make a complaint?	7
Where is the HRCO?	7
Is my complaint confidential?	8
Can I make an anonymous complaint? Can I make a complaint on behalf of someone else?	8
What happens after I file a complaint with the HRCO?	9
What is a "threshold assessment"?	9
The HRCO says that my complaint does not meet the threshold assessment. What can I do?	10
Can I complain to the HRCO in addition to other internal complaints options like a Human Resources complaint or grievance for an employee? or a complaint to a principal or superintendent for a student and/or parent?	10
Can I get into trouble if I file a complaint?	11
Can I contact the HRCO if I have been assigned to home and I am not permitted to contact Board staff or come onto Board property?	11
What is "early resolution"?	11
Who investigates my complaint?	12
What happens if the HRCO finds that my complaint was substantiated?	12

What are some of the possible outcomes of this process if a complaint is substantiated? 12

What are my options if the HRCO finds that my complaint was not substantiated? Can I appeal?
..... 13

WHAT IS THE HUMAN RIGHTS COMMISSIONER’S OFFICE OR HRCO?

The Human Rights Commissioner’s Office or HRCO is an independent, arm’s length, and neutral office within the Peel District School Board (Board). That means that the HRCO is not influenced by the Board as it operates separate from the Board and it is accountable solely and directly to the Director of Education.

The HRCO has several roles:

- receiving complaints from the Board community about human rights concerns which the HRCO will investigate and try to resolve in a confidential, fair, just and equitable manner;
- reviewing Board policies and practices on an ongoing basis to make sure that they follow the principles of equity and inclusion and that they comply with the Ontario *Human Rights Code*;
- providing human rights education and training to all members of the Peel Board community; and,
- providing analysis and advice on human rights, inclusion strategies, support tools for traditionally marginalized communities and other equity issues

WHAT KIND OF COMPLAINTS DOES THE HRCO DEAL WITH?

The HRCO deals with individual complaints made under the Board’s Policy 51 – Human Rights. Any member of the Board community – employee, student, parent, volunteer, trustee, contractor, permit-holder, or visitor – can make a complaint to the HRCO if the Board community member believes that they have experienced discrimination, harassment or reprisal contrary to the *Human Rights Code* at the Board. A complaint may deal with discriminatory or harassing behaviour or reprisal at all places where business, student, or social activities of the Peel Board happen such as at a school or the Board office. It can also include incidents that happen away from Board property even if it is outside of normal business hours if the incident is linked to the workplace or school environment. This might include events like a school trip, a Board sponsored prom or graduation held at a school or other place in the evening, or a work-related training held at a place off site.

The HRCO does not deal with complaints against a trustee which are dealt with by the Integrity Commissioner under the Trustee Code of Conduct.

Policy 51- Human Rights address the following:

Discrimination is defined as differential treatment on the basis of one or more enumerated ground that results in disadvantage. Discrimination can be direct or indirect and need not be intended.

Harassment is defined as engaging in a course of vexatious comment or conduct that is known, or ought reasonably to have been known, to be unwelcome.

Reprisal is any intentional, negative treatment against any person who claims or enforces their human rights, who starts proceedings and/or participates in human rights proceedings, or who refuses to infringe the human rights of another person.

The *Code* provides that everyone has a right to equal treatment in the following **social areas**:

- Services (such as education), goods and facilities;
- Employment;
- Contract;
- Accommodation (housing); and
- Vocational associations

The *Code* prohibits discrimination and harassment in those social areas on the basis of the following **protected grounds**:

- **age** is defined in the *Code* as being 18 years or older, or 16 years or older in housing if you have withdrawn from parental control
- **ancestry** means a lineage of people from whom one is descended
- **citizenship** means the legal status of being a citizen of a particular country
- **colour** refers to the skin colour of a person, usually associated with race
- **creed** means practices, beliefs, and observances that may be part of an organized faith or religion or other faith or spiritual practices

• **disability** is defined in the *Code* as:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*

• **ethnic origin** means the culture individuals identify with and from which they derive a common heritage or ancestry, or a shared historical past

• **family status** is defined in the *Code* as the status of being in a parent and child relationship

• **gender expression** refers to how a person expresses their gender identity to the world, which may include the way they dress, the way they style their hair, the way they act or speak, and the pronouns they use

• **gender identity** is linked to an individual's intrinsic sense of self and their sense of being female, male, a combination of both, or neither regardless of their biological sex

• **marital status** is defined in the *Code* as the status of being married, single, widowed, divorced or separated and includes the status of living with a person in a conjugal relationship outside of marriage

• **place of origin** means the country where a person was born

• **race** is a socially constructed identity which refers to a group of people of common ancestry, distinguished by physical characteristics such as color of skin, shape of eyes, hair texture or facial features

- **receipt of public assistance** means receiving government income support such as Ontario Works and is a *Code* ground with respect to accommodation (housing) only
- **record or offences** under the *Code* means a conviction for an offence for which a pardon or record suspension has been granted under the *Criminal Records Act* (Canada) and has not been revoked or an offence under any provincial enactment and is a *Code* ground with respect to employment only
- **sex** relates to a person's biological sex, male or female, pregnancy, and sexual harassment
- **sexual orientation** refers to the range of human sexuality including gay, lesbian, bisexual, and heterosexual orientations
- **association, relationship, or dealings with a person or persons identified by a protected ground of discrimination**

HOW LONG DO I HAVE TO MAKE A COMPLAINT?

Complaints to the HRCO must be made within 1 year after the incident to which the complaint relates or if there is a series of incidents within 1 year after the last of the series. The 1-year time limit may be waived or extended at the HRCO's discretion if the person making the complaint can show the HRCO that the delay happened in good faith and that there wouldn't be any substantial prejudice or disadvantage to any person like a respondent who may be affected by the delay.

HOW DO I CONTACT THE HRCO?

You can contact the HRCO:

- by telephone at (905) 890-1010 ext. 4726 or (905) 366-1533
- by email at hrco@peelsb.com
- by mail at Human Rights Commissioner's Office

HJA Brown Education Centre
5650 Hurontario Street
Mississauga, ON L5R 1C6

HOW DO I MAKE A COMPLAINT?

Any member of the Board community who believes that their *Code* rights under Policy 51 have been infringed can contact the HRCO for a confidential consultation. Board community members can also file a complaint with the HRCO by filling out an HRCO Complaint Form found on the HRCO webpage.

The HRCO will contact a complainant within 7 days after receiving a completed HRCO Complaint Form.

WHERE IS THE HRCO?

The HRCO is located in a private space at the Central Board Office (CBO), HJA Brown Education Centre at 5650 Hurontario Street, Mississauga, ON.

The HRCO understands that some people may not want to come to our office at the CBO or may not be able to meet with us during the working day. The HRCO is flexible in meeting with parties and witnesses and may arrange off-site meetings and electronic meetings that meet the needs of people involved in a complaint including meeting at times outside of the usual working day.

IS MY COMPLAINT CONFIDENTIAL?

Yes. Confidentiality is important. The HRCO must follow the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* or other applicable legislation, and every attempt will be made throughout the complaint resolution process to respect the confidentiality and personal rights of all parties and witnesses to the complaint. Confidentiality will be kept at all times unless there is a legal obligation that requires the HRCO to disclose information such as a tribunal or court order. In that case, the HRCO will first tell the person whose information must be disclosed about the disclosure obligation before the HRCO shares any information. Anyone making a complaint to the HRCO should not discuss the matter with anyone else other than the HRCO, a support person, and a union representative, if applicable. The HRCO will maintain confidentiality of information and will disclose only where absolutely necessary. Information obtained about a complaint (including identifying information about any individuals involved) will not be disclosed unless the disclosure is necessary for the purposes of resolving and/or investigating the complaint, or is otherwise required by law.

Confidentiality does not mean anonymity. A fundamental principle in dealing with a complaint is that the respondent must be told who has complained and the specific nature of the allegations at the earliest possible point in the process.

CAN I MAKE AN ANONYMOUS COMPLAINT? CAN I MAKE A COMPLAINT ON BEHALF OF SOMEONE ELSE?

The HRCO is interested in hearing from the Board community about human rights concerns and the HRCO welcomes all human rights complaints. There are, however, limits on the HRCO's ability to assess and/or investigate a complaint made anonymously or a complaint made on behalf of another person. It is important in assessing and investigating complaints that the HRCO hear from the actual complainant to gather additional details about the human rights concerns and to understand the impact on the complainant. Further, as a matter of fairness, a respondent to a complaint has the right to know the details of any complaint made against them, including the identity of the person alleging a breach of Policy 51. Consequently, the HRCO may be unable to investigate anonymous complaints and complaints filed on behalf of another person.

WHAT HAPPENS AFTER I FILE A COMPLAINT WITH THE HRCO?

The HRCO will review the complaint and set up an interview with the person complaining in order to gather information to determine if the complaint falls within the HRCO's mandate. This process is called a "threshold assessment". To meet the threshold assessment a complaint must involve a social area and show a link between the unequal treatment creating disadvantage and a protected ground (see "threshold assessment" below).

If the complaint does not meet the threshold, the HRCO will send a letter to the complainant letting them know that their complaint did not meet the threshold, including reasons, and that the complaint will not proceed. The letter will also let the complainant know that they can request a reconsideration of the HRCO's decision within 30 days.

If a complaint meets the threshold, the complaint will proceed and the HRCO will provide a copy of the complaint to the respondent(s).

WHAT IS A "THRESHOLD ASSESSMENT"?

When the HRCO receives a complaint alleging a breach of Policy 51, the HRCO will perform a preliminary threshold assessment. The threshold assessment will determine:

- 1) if the complaint is based on any of the protected grounds under Human Rights Policy 51;
- 2) whether the complaint is within the mandate of the HRCO; and,
- 3) whether it is appropriate for the complaint to proceed at that time.

These questions answer whether the complaint deals with a social area and, if so, whether there a link between the unequal treatment and a protected ground.

Examples of complaints that meet the threshold assessment:

- Student complaining that he is not receiving accommodation of his disability at school. The social area engaged is "services" in education and the protected ground is "disability".
- School employee complaining that she was not allowed to take a day off of work to attend a significant religious observance. The social area is "employment" and the protected ground is "creed".

Examples of complaints that do not meet the threshold assessment:

- Student complaining that his school does not have a competitive tennis team. While the social area may be services, there is no protected ground engaged.
- School employee complaining that it is unfair that they have not been consulted when a decision is made about the end of year field trip destination. While the social area is "employment", no protected ground is engaged.

THE HRCO SAYS THAT MY COMPLAINT DOES NOT MEET THE THRESHOLD ASSESSMENT. WHAT CAN I DO?

If you disagree with the HRCO's threshold assessment decision, you can file a reconsideration request asking the HRCO to review its decision. A reconsideration request must be made in writing within 30 calendar days from the date of the HRCO's threshold assessment decision and you can use the HRCO Reconsideration of a Preliminary Threshold Assessment Decision Form. There are limited cases when the HRCO will grant a reconsideration such as if there was procedural unfairness in how the HRCO made its preliminary threshold assessment decision or there are new facts or evidence that could impact on the preliminary threshold assessment decision and those facts were not reasonably available earlier.

If the HRCO grants your reconsideration request about its preliminary threshold assessment decision, your complaint will proceed. If your reconsideration request is denied, the complaint does not proceed and this decision is final.

CAN I COMPLAIN TO THE HRCO IN ADDITION TO OTHER INTERNAL COMPLAINTS OPTIONS LIKE A HUMAN RESOURCES COMPLAINT OR GRIEVANCE FOR AN EMPLOYEE? OR A COMPLAINT TO A PRINCIPAL OR SUPERINTENDENT FOR A STUDENT AND/OR PARENT?

A complainant may have several options for where they can raise their complaint and a complainant should explore which option can most effectively address their concerns and the deadlines for pursuing each of those options. If a complainant has raised their concerns in an alternate or other forum such as through a complaint to Human Resources Support Services or a grievance process in the case of an employment complaint, or filed an application at the

Human Rights Tribunal of Ontario, the HRCO may decide not proceed with a complaint to the HRCO in order to avoid duplicate proceedings.

CAN I GET INTO TROUBLE IF I FILE A COMPLAINT?

No. Any member of the Board community who files a complaint under Policy 51 or who is involved in a complaint such as a witness, advisor, support person or representative, should not face any negative treatment or consequences for having taken part in the complaint process. Any member of the Board community who reprises against or punishes a complainant for having filed a complaint or against any other individual involved in the complaint process, may be the subject of a complaint under Policy 51.

CAN I CONTACT THE HRCO IF I HAVE BEEN ASSIGNED TO HOME AND I AM NOT PERMITTED TO CONTACT BOARD STAFF OR COME ONTO BOARD PROPERTY?

The HRCO, as an independent and arm's length office to the Board, may be contacted by any complainant even if the complainant has been suspended or expelled, banned from Board property, or assigned to home.

WHAT IS "EARLY RESOLUTION"?

Early resolution occurs when the complainant and respondent reach an agreement that addresses the complaint and resolves the issue. Where the HRCO has reason to believe that the complaint could be remedied by an informal resolution, the HRCO may ask both the complainant and the respondent to engage in an informal resolution process or mediation. If the parties agree to an informal resolution process or mediation, the HRCO will make efforts to resolve the complaint applying restorative practices.

WHO INVESTIGATES MY COMPLAINT?

The HRCO may assign an investigator from the HRCO or it may retain an investigator from outside of the Board with human rights expertise to investigate a complaint. The HRCO, as an independent and arm's length office, performs its investigation and fact-finding outside of the usual Board reporting lines. All members of the Board community are responsible to act when they have knowledge of discrimination against another member of the Board community and to co-operate with the HRCO investigator.

WHAT HAPPENS IF THE HRCO FINDS THAT MY COMPLAINT WAS SUBSTANTIATED?

The HRCO will provide a copy of the investigative report to the parties and report and the HRCO investigator may meet with the complainant and respondent separately to review the HRCO investigator's findings and outcome decision. The HRCO will provide its outcome decision and recommendations about appropriate remedial actions, to the Director of Education who determines what remedies will be provided.

WHAT ARE SOME OF THE POSSIBLE OUTCOMES OF THIS PROCESS IF A COMPLAINT IS SUBSTANTIATED?

Each complaint is unique and any remedy that may be achieved is individualized and restorative with a focus on making the complainant whole. Remedies that may make a complainant whole could include:

- Reasonable accommodation for a Code-protected need (ex. disability, creed, family status)
- Changes to a policy
- Human rights training for the respondent(s)

WHAT ARE MY OPTIONS IF THE HRCO FINDS THAT MY COMPLAINT WAS NOT SUBSTANTIATED? CAN I APPEAL?

The HRCO will let the parties know the outcome decision in writing. If a complaint is not substantiated or any party disagrees with the outcome decision, the person who disagrees with the outcome decision may request a reconsideration of the outcome decision by filing an HRCO Reconsideration of Outcome Decision Form within 30 calendar days from the date of the HRCO's outcome decision.

The HRCO may grant a reconsideration of an outcome decision where the HRCO is satisfied that:

- (a) There was procedural unfairness underlying the outcome decision;
- (b) There are new facts or evidence that could impact on the outcome decision and that could not have been reasonably obtained earlier;
- (c) The outcome decision is not in line with Board policies or practices; or,
- (d) There are other factors that impact on the outcome decision that outweigh the finality of the outcome decision and/or recommendations.

The HRCO will not reconsider outcome decisions where the only basis for the reconsideration request is that a party disagrees with the factual conclusions of the HRCO investigator.

If the HRCO grants a reconsideration request, it may:

- (a) Affirm the original decision outcome;
- (b) Vary but affirm the overall outcome decision; or,
- (c) Amend the outcome decision.

A reconsideration request decision by the HRCO is final and cannot be reconsidered or appealed further at the Board.