

Resolving Competing Human Rights Policy



Here's a Model Policy based on the guidelines and best practices that you can adapt and use even if you're not based in Ontario. Adapt this policy to be consistent with your company's other human resources and workplace safety policies and the human rights law in your jurisdiction. Give it to all employees, including senior management, supervisors and workers (full- and part-time).

Organizational Commitment

The management of [*insert company name*] 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

[*Insert company name*] 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:

1. Shows dignity and respect for all involved;
2. Encourages mutual recognition of interests, rights and obligations;
3. Facilitates maximum recognition of rights, wherever possible;

4. Helps parties understand the scope of their rights and obligations;
5. Addresses stigma and power imbalances and helps give marginalized individuals and groups a voice and
6. Encourages cooperation and shared responsibility for finding agreeable solutions that maximize enjoyment of rights by all.

3. Definition of “Competing Human Rights”

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. [Insert company name]’s Rights & Obligations under Human Rights Laws

Under [insert your jurisdiction]’s human rights law, it’s illegal to discriminate against individuals regarding employment on the basis of [list the protected grounds in your jurisdiction, such as 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, [insert company name] 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.

5. Responsibilities of Different Personnel under Policy

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

1. **[Insert company name] Management:** *[List duties]*.
2. **[Insert company name] HR Director:** *[List duties]*.
3. **Supervisors:** *[List duties]*.
4. **Workers:** *[List duties]*.
5. **Others:** *[List duties]*.
6. **Resolution Process**

1. Worker may direct their discrimination/competing human rights concerns or complaints to *[designate a person or panel who's in a position to act objectively and independently]*.
2. *[Insert company name]* will make every effort to maintain confidentiality through the complaint and resolution process and no worker will be penalized, disciplined or suffer any other adverse treatment, reprisal or recrimination for raising a complaint or concern under this Policy.
3. *[Insert company name]* 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.]*
4. Complaints and concerns brought under this Policy may be resolved via the *[insert company name]*'s Alternative Dispute Resolution process *[describe, such as negotiation, conciliation, mediation, arbitration, etc.]*.
5. *[Insert company name]* 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]*.

7. Resolution Principles

[Insert company name] retains authority to resolve competing

human rights situations. In determining resolutions that are fair and equitable to all involved, [*Insert company name*] will be guided by the following principles:

1. No rights are absolute, that is, all rights are subject to appropriate limits and compromise necessary to accommodate the rights of others.
2. There is no hierarchy of rights, that is, all human rights are equally important and nobody's right is inherently superior to another's.
3. 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.
4. In all competing human rights cases, [*Insert company name*] will seek solutions that allow each side to exercise their rights without interference. Where this is impossible, [*Insert company name*] will follow the next best approach of finding a compromise that weighs all interests and minimally interferes with the rights of individuals involved.
5. In weighing competing human rights, [*Insert company name*] will consider not only the letter of the law but also the values and societal objectives the law is designed to promote, such as the avoidance of racial stereotypes or the special needs of a disadvantaged group.
6. In weighing competing human rights, [*Insert company name*] will also consider not only whether a valid right has been asserted but also whether the complained of conduct or situation actually interferes with the right and, if so, to what extent. In general, [*Insert company name*] will feel a stronger compulsion to intervene to protect a right that it believes has been subject to substantial interference.
7. In situations involving substantial interference with human rights of more than one individual, [*Insert*

company name] will afford equal respect to each set of rights but distinguish between the core and periphery of the rights involved, that is , 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 from anti-Semitism is a core element of the co-workers' religious freedoms, the right to express personal opinions in a company meeting is peripheral to Employee A's freedom of expression.

8. 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 [*Insert company name*] 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:

1. Human rights complaint with the [*insert name of jurisdiction*] Human Rights Commission;
2. A health and safety complaint with the [*insert name of jurisdiction*] Occupational Health and Safety agency;
3. A labour complaint with [*insert name of jurisdiction*] Labour Relations Board; and/or
4. A grievance under the [*insert company name*] collective agreement.