

APPENDIX C: Guidelines for preparing an investigation Report

OVERVIEW

An investigation report sets out the allegations, a logical description of the facts, an analysis of each incident, and a conclusion. The final report should contain the following elements:

- ✓ A description of the allegations;
- ✓ A description of the investigation process followed;
- ✓ A description of the background information and evidence that supports or refutes each allegation;
- ✓ An analysis of the evidence in respect to each allegation; and,
- ✓ A statement as to whether or not the conduct described in each allegation constitutes breach of the NLESD Respectful Workplace/Harassment Prevention and Resolution Policy.

CHARACTERISTICS OF A GOOD REPORT:

The report must achieve its objective – to respond to the requirements of the mandate and answer the questions raised (i.e. are the allegations of harassment founded or not?)

The report must be logical, sufficiently detailed and accurate. It should not include extraneous or irrelevant information or unsubstantiated opinions. The person responsible for managing the harassment complaint process must be able to rely on the facts set out in the report and render a decision accordingly.

The investigator should ensure that the structure of the report is clear for the reader so that s/he can easily access and reference the information. The pages should be clearly numbered, dates, and witnesses should be accurate and there should not be any spelling or grammar mistakes. To the greatest extent possible, the investigator should rely on simply and direct language to describe the facts and to develop the analysis. As a general rule, the investigator should avoid using:

- Ambiguous language;
- Abbreviations or acronyms;
- Overly long or complex sentences;
- Characterizations or descriptions which could denote bias; and,
- Medical, legal or overly technical terminology.

Investigators should expressly advise parties and witness that, while every effort will be made to protect their confidentiality and privacy, the report will be disclosed in whole or in part to the employer, complainant, and respondent, and to others under specific conditions (e.g. under a court order or ATIPPA request).

VALIDATING THE FACTS

Once the investigator has gathered the relevant facts, s/he must validate this information with the parties. In order to do so, the investigator will:

1. Prepare a preliminary summary of facts.
2. Submit the preliminary summary of facts to the person responsible for managing the harassment complaint process for the NLESD (e.g. Assistant Director of Education – Human Resources).
3. Ensure the parties have the opportunity to provide written comments.
4. Consider any additional information provided by the parties and incorporate it into the report if it is deemed appropriate to do so.

INVESTIGATION REPORT TEMPLATE

- I. Cover Page
- II. Executive Summary
 - a) Complainant: (Person who has made the written complaint of harassment or discrimination)
 - b) Respondent: (Person against whom a written complaint of harassment or discrimination has been made)
 - c) Nature of the Allegations: (Brief description of the type of allegation being made)
 - d) Mandate, including any subsequent amendments: (Brief description of the authorization and extent of the investigation)
 - e) The Complainant was sent the preliminary summary of facts on:
 - f) Comments on the preliminary summary of facts received on:
 - g) The Respondent was sent the preliminary summary of facts on:
 - h) Comments on the preliminary summary of facts received on:

III. Investigation report

a. Allegations:

_____ alleges that _____ harassed him or her in the workplace. The allegations that form the subject of this investigation are as follows:

b. Mandate:

The role and responsibility of the Investigator, the authorization and outline of the terms of reference for the investigation

c. Investigation Procedure:

The following interviews were conducted (date/time/location); complainant/respondent accompanied by (Name, Title and Organization of the person accompanying him/her); the following documents were considered.

d. Facts:

In addition to the facts that appear in the preliminary summary of facts, the comments received following disclosure of the summary may also be included in the investigation report. It is the investigator's responsibility to determine which elements should be included. However, the comments of the parties should be included in the report if, following the responses from the parties to the preliminary summary of facts, the investigator had to reopen the investigation.

e. Analysis:

The analysis section is found only in the final investigation report. The analysis brings together all of the salient evidence. The analysis should start with the description of the criteria to be met in order to conclude that there has been a breach of the Policy. The analysis is a critical component of the report; it requires sophisticated analysis on the part of the investigator who analyzes the evidence adduced and the arguments made by the parties, as well as any other relevant information gathered in the course of the investigation. The analysis must explain how the information gathered was assessed, and why the investigator reached a particular conclusion. Each allegation should be identified and analyzed separately and as a whole if there is an attempt to demonstrate a pattern of repetitive conduct.

f. Conclusions:

- In determining whether the alleged conduct constitutes harassment, the investigator must determine whether the conduct meets the criteria set out in the Policy. In the Conclusions section, the investigator summarizes his or her findings and draws conclusions with supporting rationale for each individual allegation. Investigation reports should include a section with conclusions to summarize the main points and highlight the essential information of the report.
- With respect to the allegations, the findings should never be inconclusive. If the investigator determines that there is not sufficient evidence to conclude that the allegations are founded or partially founded, the investigator must find that the evidence does not support the allegations, consistent with the required burden and standard of proof. The conclusions on each allegation must give the reader a clear understanding that:
 - On the balance of probabilities, the evidence does/does not support the allegation(s);

- And if supported, the conduct does/does not satisfy the criteria for harassment as per the Policy.
- The conclusions must not contain any surprises. In other words, they must all relate to the allegations and evidence contained in the report. The conclusions must be coherent, clear, concise and appropriate to the facts stated.
- **The investigator's report does not contain recommendations on what administrative, corrective/restorative, and/or disciplinary action should be taken.**

g. Investigator's Closing Declaration

"I declare that, in conducting this investigation, the rules of procedural fairness were observed. I ensured that the parties were reminded of their rights and obligations with respect to the investigation process and gave all those involved, including witnesses, the opportunity to verify their statements. I also declare that I took into account all of the comments made by the parties in regard to the preliminary summary of facts in my assessment of this case and in the conclusions presented above."

h. Signature and Date

i. Appendices