

Bylaws

Alberta Human Rights Commission

Pursuant to section 17(1) of the Alberta Human Rights Act

**Alberta Human Rights Commission Bylaws
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Introduction

The Alberta Human Rights Commission has a mandate to foster equality and reduce discrimination by serving the public interest, ensuring access to justice, advancing equity and inclusion and upholding human rights principles in Alberta.

Under the *Alberta Human Rights Act*, the Director accepts complaints and later, may refer complaints to the Chief of the Commission and Tribunals for consideration by a Tribunal. The Director is responsible for receiving, inquiring, into and assessing complaints, which may include investigation and conciliation. The Director may dismiss or discontinue a complaint, or may refer a complaint to the Chief Commissioner to address at the Tribunal level. The Tribunal is a quasi-judicial administrative tribunal that has the power to hear and make decisions regarding a human rights complaint.

Under section 17 of the *Alberta Human Rights Act*, the Alberta Human Rights Commission has the authority to make bylaws regarding:

- a) carrying out of the Commission's powers, duties and functions under the Act; and
- b) procedural matters related to handling complaints, including those that are before the human rights tribunal.

These bylaws consist of three parts:

Part 1 Common bylaws of the Director and Tribunal apply to common practices of the Alberta Human Rights Commission, including the Director and the Tribunal;

Part 2 Bylaws of the Director apply to proceedings of complaints filed with the Alberta Human Rights Commission that are at the Director's level; and

Part 3 Bylaws of the Tribunal apply to proceedings of the Alberta Human Rights Tribunal.

Part 1: Common Bylaws of the Director and Tribunal

1.0 Definitions

"Act" means the *Alberta Human Rights Act*, RSA 2000 c A-25.5;

"authorized representative" means a person who is not licensed to act as a lawyer in Alberta, but who has been authorized by a party to act on the party's behalf in a Commission proceeding;

"bylaw" refers to these bylaws made as per section 17 of the Act;

"carriage" means having primary responsibility for conducting a hearing;

"Chief Commissioner" means the Member of the Commission designated by the Lieutenant Governor in Council as Chief of the Commission and Tribunals and includes an Acting Chief Commissioner;

"Commission" means the Alberta Human Rights Commission and includes the Director and Tribunal;

"complainant" means a person who has made a complaint under the Act;

"complaint" means a complaint that has been accepted by the Director under the Act and these bylaws;

"Director" includes the Director of the Commission appointed by the Lieutenant Governor in Council, a deputy Director, and staff in the Director's office who have been granted authority by the Director to act on behalf of the Director;

"Director of the Commission" means the person appointed by the Lieutenant Governor in Council as the Director, and includes a deputy Director;

"electronic document" and "electronic format" means information that is created or stored in a manner that requires a computer or other electronic device to use it, and includes documents, emails and attachments to emails;

"electronic signature" means a signature through electronic means that is part of a document;

"file" means to submit a document to the applicable office, the Tribunal or Director, for it to be placed on the record;

"hearing" means a hearing before the Tribunal including a hearing that is oral, in-person, virtual or by way of written submissions, and includes a pre-hearing and hearing on a preliminary matter;

"human rights officer" means a person who works for the Commission at the Director's level to resolve, investigate, and make recommendations on complaints;

“inquiry” means a complaint form that has been received by the Director but has not been accepted as a complaint under the Act;

"lacks mental capacity" in relation to the bylaw on litigation representative means a person who cannot understand information needed to make decisions about the case or who cannot appreciate the reasonably foreseeable consequences of such decisions;

“legal counsel” means a legal representative licensed or authorized to practice law in Alberta, representing a party to a complaint;

“litigation representative” is a person who represents a minor under the age of 18, or who represents a person who lacks mental capacity to participate in the proceedings before the Commission;

“order” refers to a legal order or decision of the Tribunal;

“party” means any person entitled under the Act to participate as a party to a Commission process or any person who the Director or Tribunal determines to be a party to a complaint;

"proceedings" means the procedures and processes that the Director and Tribunal use to address a complaint;

“represented person” in relation to the bylaw on litigation representative means the person who a litigation guardian is representing;

“respondent” means a person named in the complaint, or added as a respondent by the Director or Tribunal, who is alleged to have contravened the Act;

"Tribunal Member" means a Member of the Commission appointed by an Order in Council under the Act;

“Tribunal Registrar” means the person responsible for keeping and managing records of the Tribunal, and who is the main contact for complaints that are before the Tribunal; and

“virtual” refers to a proceeding that is held by teleconference or videoconference.

2.0 Exercise of powers

2.1 These bylaws will:

- a) be interpreted and applied in a manner consistent with the purposes of the Act;
- b) be liberally and purposively interpreted;
- c) promote the fair, just and expeditious resolution of disputes;
- d) allow parties to participate effectively in the proceedings, whether or not they have representation; and
- e) ensure that all procedures, orders, and directions are proportionate to the importance and complexity of the issues in the particular proceeding.

2.2 The Tribunal and the Director may exercise their powers under the Act and these bylaws at the request of a party, or on their own initiative.

2.3 The Tribunal or Director may at any time, without providing written reasons, waive or vary the application of a bylaw, and may lengthen or shorten any time limit unless it is prohibited by legislation.

2.4 The Commission may establish procedures to fulfill its mandate and its duties under the Act and these bylaws, including setting out practice directions, policies, guidelines, and forms.

2.5 A party shall not use a document obtained under these bylaws in another legal forum, except with the consent of all parties to the complaint and the agreement of the Commission.

3.0 Accommodation

3.1 A party to a complaint, a witness, an authorized representative, or legal counsel may request an accommodation based on a protected ground under the Act.

3.2 A person who requires a human rights related accommodation should inform the Commission prior to a proceeding as soon as the person is aware of the need for accommodation.

3.3 A witness may request that they give their evidence under oath, rather than affirmation.

4.0 Good faith and civility

4.1 A party to a complaint, and any other person appearing before or participating in a Commission proceeding must:

- a) follow provisions under the Act and bylaws;
- b) respond to the Commission in a timely manner;
- c) act in good faith; and
- d) act in a manner that is courteous and respectful of those involved in Commission proceedings.

4.2 The Director or Tribunal may deem the failure to adhere to these expectations as an abuse of process.

5.0 Abuse of process

- 5.1 The Director and Tribunal, as they deem necessary, may make orders and directions in matters before the Commission to prevent an abuse of process.
- 5.2 Where the Director finds that a person is repeatedly filing or attempting to file complaints with the Commission that are frivolous or vexatious, the Director may refuse to accept the complaint or refuse to proceed further with a complaint.

6.0 Recording proceedings

- 6.1 No person is permitted to record any conversations, conciliations, investigations, or proceedings of the Director or the Tribunal, including on the phone, in person, or in a virtual proceeding, without prior written consent of the Commission.

7.0 Litigation representative

- 7.1 A person may seek to be a litigation representative for a party who lacks mental capacity to participate in a Commission process, or for a minor who is under the age of 18 years.
- 7.2 The Commission presumes that people have the mental capacity to manage and conduct their matter with the Commission and to appoint and instruct an authorized representative or legal counsel. This bylaw does not apply where a litigation representative is not required as a result of the nature of the proceedings.
- 7.3 A potential litigation representative is required to file a signed declaration in the form designated by the Commission.
- 7.4 The Commission may ask for submissions on whether to refuse the litigation representative, and may nevertheless refuse or remove a litigation representative because:
 - a) the litigation representative has an interest that conflicts with the interests of the represented person;
 - b) the appointment conflicts with the decision-making authority of another person;
 - c) the represented person has capacity to engage or continue in the proceedings;
 - d) the litigation representative is unable or unwilling to continue in this role;
 - e) a more appropriate person seeks to be litigation representative; or
 - f) a litigation representative is not needed in the matter, or at that stage of the proceedings.
- 7.5 A litigation representative will attend to and represent the interests of the represented person in the matter before the Commission, and take all steps necessary for the protection of those interests including:
 - a) to the extent possible, keeping the represented person informed of all decisions made by the Director and Tribunal and consulting with the represented person about the proceedings;
 - b) considering the impact of the proceedings on the represented person;
 - c) deciding whether to retain an authorized representative or legal counsel and providing instructions to them;
 - d) gathering information that is requested by the Commission and putting forward the best possible case to the Commission;
 - e) responding promptly to Commission communications;

- f) acting in a manner that is courteous and respectful of those involved and in compliance with these bylaws;
- g) participating in good faith in settling the complaint, including consideration of a reasonable settlement offer; and
- h) immediately updating the Commission if contact information changes or the litigation representative is no longer representing the party to a complaint.

7.6 When a minor who is represented by a litigation representative turns 18, the role of the litigation representative will automatically end, except in the case where the minor continues to require a litigation representative because the represented person lacks mental capacity to participate in a Commission proceeding.

7.7 Where a party to a complaint has diminished capacity but does not require a litigation representative, the Commission may allow another person to provide support and assistance to that party to facilitate their full participation in the Commission proceedings.

8.0 **Authorized representative**

8.1 This bylaw on authorized representatives does not apply to legal counsel retained to represent a party.

8.2 A party is required to file a signed declaration in the form designated by the Commission to provide permission for an authorized representative to communicate with the Commission and represent the party named in a complaint.

8.3 The Director or Tribunal may disqualify or remove an authorized representative at any time if they do not act in accordance with these bylaws.

8.4 A represented party must inform the Commission promptly when their authorized representative is no longer representing the party.

8.5 An authorized representative will attend to and represent the interests of the represented party in the matter before the Commission, and take all steps necessary for the protection of those interests including:

- a) keeping the represented party informed of all Commission decisions and correspondence regarding the complaint and consulting with the represented party about the proceedings;
- b) gathering information that is requested by the Commission and putting forward the best possible case to the Commission;
- c) responding promptly to Commission communications;
- d) acting in a manner that is courteous and respectful of those involved and in compliance with these bylaws;
- e) participating in good faith in settling the complaint, including consideration of a reasonable settlement offer; and
- f) immediately updating the Commission if contact information changes or the authorized representative is no longer representing the party to a complaint.

Part 2: Bylaws of the Director

9.0 Application of this part

- 9.1 Part 2 outlines the bylaws of the Director, but is not applicable to tribunal proceedings that are in Part 3 of these bylaws.

10.0 Director's process for filing documents

- 10.1 As soon as a party is aware of a change in their contact information, or that of their authorized representative or legal counsel, they must notify the Director.
- 10.2 Parties must file all written communications, including electronic documents, with the Director, using one of these methods:
- a) in-person delivery;
 - b) courier;
 - c) regular, registered or certified mail;
 - d) fax;
 - e) email; or
 - f) as directed by the Director.
- 10.3 The parties must include the following legible information when filing documents with the Director:
- a) name of the complainant and respondent;
 - b) name of the person filing the document and, if applicable, the name of their authorized representative or legal counsel;
 - c) mailing address, telephone number and, if available, email address and fax number of the person filing the document; and
 - d) inquiry or complaint number, if assigned.
- 10.4 A party who indicates that they agree to be contacted by email understands and consents to receive and be served future documents and correspondence by email.
- 10.5 The Director may determine that:
- a) electronic documents are accepted in a proceeding;
 - b) parties use a particular electronic format; and
 - c) parties sign a document by electronic signature.
- 10.6 A party filing a document regarding a complaint must file it with the Director. The Director may instruct that documents be provided directly to the other parties.
- 10.7 A document delivered to the Director or a party will be deemed to have been delivered:
- a) in-person, on the date the document is left with the Director's office or the party's last known address;
 - b) by courier, registered or certified mail on the date it is received;
 - c) by fax, when the party sending the document receives a fax confirmation receipt; and
 - d) by email, on the date the document is sent to the email address specified by the Director or the party.
- 10.8 A document to be filed with the Director that is received after 4:30 p.m. will be deemed to have been filed on the next day that the Director's office is open.

11.0 Filing a complaint

- 11.1 Any person who has reasonable grounds for believing that a person contravened the Act may file a complaint with the Commission. The Director will consider if this inquiry to make a complaint complies sufficiently with the Act to allow it to be processed as a complaint.
- 11.2 A complaint must be complete, including that it must be in a form acceptable to the Commission and must be made within one year after the alleged contravention of the Act occurred.
- 11.3 A complaint is complete when it is legible and:
- provides the information requested in every applicable section of the Commission's complaint form;
 - sets out all the facts that describe each allegation of discrimination, including how the complainant's rights have been violated under the Act;
 - provides the name and contact information of each respondent; and
 - is signed by the complainant.
- 11.4 Where an inquiry to make a complaint is incomplete or lacking information, the Director may return the inquiry to the person and request that it be amended with the missing information. The inquiry will be accepted as a complaint for processing if it is returned to the Director, with the missing information, no later than 30 days after the Director's request, or such further time the Director permits.
- 11.5 Where the party does not provide the requested information to the Director, within the time provided, the Director may decide to refuse the inquiry as a complaint.
- 11.6 Where the Director accepts an inquiry as a complaint, including when amendments were made under bylaw 10.4, the filing date shall be the date the complaint was originally received by the Director.
- 11.7 The Director may also not accept an inquiry as a complaint to be processed if:
- the inquiry is not within the Commission's jurisdiction;
 - the full name and address of the respondent has not been provided;
 - it does not comply sufficiently with the Act and these bylaws;
 - a similar inquiry or complaint was previously received and addressed by the Director's office;
 - the inquiry is deemed to be frivolous or vexatious; or
 - the inquiry could or should be, has been, or is scheduled to be heard in another forum.
- 11.8 Where the Director does not accept an inquiry, a person may make an application to reconsider the Director's decision no later than 30 days after the decision was made. The inquiry will be reviewed by a person in the Director's office who did not originally refuse the inquiry.
- 11.9 A complaint may be closed if the respondent can not be contacted at the address provided by the complainant.
- 11.10 A complainant may withdraw a complaint by giving notice to the Director.

12.0 Complaints on behalf of

- 12.1 A person may file a complaint on behalf of another person or group of people and in such cases the person filing the complaint will be the complainant and have all the rights and responsibilities set out in the Act and these bylaws.
- 12.2 A person who files a complaint on behalf of a person or group must provide signed consents, in the form prescribed by the Commission, from each individual on behalf of whom the complaint is being filed.
- 12.3 A person who has consented to a complaint brought on their behalf may withdraw their consent at any time.
- 12.4 The Commission may refuse to permit a person to file a complaint on behalf of a person or group where the Commission decides it is not in the public interest or does not advance the purposes of the Act.

13.0 Responding to a complaint

- 13.1 A respondent must file a complete response to a complaint no later than 30 days after receiving a copy of the complaint.
- 13.2 A complete response must include:
 - a) the full legal name and contact information of the respondent;
 - b) the name, business address and telephone number of the contact person for a corporation or other entity;
 - c) a detailed response to the allegations contained in the complaint, including a statement of whether the respondent agrees or disagrees with each allegation;
 - d) an outline of any additional facts or allegations on which the respondent relies, including, where the respondent disagrees with allegations set out in the complaint and the respondent's version of the relevant facts; and
 - e) the authorized signature for the respondent.
- 13.3 Where the Director returns an incomplete response to the respondent, requesting additional information, the respondent may resubmit the response no later than 30 days after the request was made.
- 13.4 Where the respondent does not file a response, or does not amend its incomplete response within the time period allowed, the complaint may proceed and be decided based only on the information provided by the complainant, and without further input from the respondent.
- 13.5 The respondent does not need to provide a detailed response to the allegations in a complaint where the issues in dispute are the subject of:
 - a) a full and final signed release between the parties that covers the allegations in the complaint;
 - b) a separate complaint that was already filed with the Director; or
 - c) exclusive federal jurisdiction.

In these cases, the respondent must attach a copy of the applicable information and include with the response a complete argument in support of its position that the complaint should be dismissed or not accepted.
- 13.6 The respondent may be asked to file a complete response where the Director considers it necessary to the fair, just and expeditious resolution of the matter.

14.0 Amendments

- 14.1 The Director, on the request of a party or on its own motion, may amend a complaint or response including:
- a) adding or removing a party, area, ground or allegation;
 - b) separating complaints that name multiple respondents;
 - c) severing a complaint; or
 - d) combining two or more complaints.
- 14.2 A party requesting an amendment shall provide:
- a) submissions on the requested amendment, including the legal basis for making the amendment;
 - b) details regarding the amendment; and
 - c) reasons that an amendment would assist in the fair, just and expeditious resolution of the complaint.
- 14.3 The Director does not need to provide written reasons for accepting or refusing to make an amendment.
- 14.4 Parties have a responsibility to protect against the disclosure or release of private or personal information of their own, of another party, or of another person who is not a party to the complaint.
- 14.5 The Director may modify a complaint, response, or other document to protect against an unnecessary breach of privacy or to cure a minor irregularity or defect.

15.0 Conciliation

- 15.1 Where the Director appoints a conciliator, the parties will in good faith take all reasonable steps to:
- a) be available for conciliations, meetings, or discussions;
 - b) provide background information and supporting documents as requested;
 - c) consider all reasonable settlement offers; and
 - d) meet timelines outlined by the Director.
- 15.2 Any person participating in conciliation is under an obligation to keep all information received during conciliation confidential between the parties, and shall not discuss the information with anyone other than their family or support person, authorized representative, legal counsel, or financial representative.
- 15.3 Conciliations may proceed in the manner chosen by the Director, including in-person meetings, or by virtual conciliation.
- 15.4 A human rights officer may make a recommendation to the parties of an appropriate remedy to resolve the complaint.
- 15.5 The Director may proceed with the final consideration of a complaint at any time, including where a party refuses to participate in a conciliation.

16.0 Investigation

- 16.1 Where the Director investigates the complaint, the parties will, in good faith, take all reasonable steps to:
- a) be available for interviews and meetings;
 - b) provide background information, supporting documents, and further submissions;
 - c) respond promptly to written or oral inquiries from the Director;
 - d) provide requested information and respond promptly to Commission communications;
 - e) arrange for witnesses to be interviewed; and
 - f) meet timelines outlined by the Director.

17.0 Complaint consideration

- 17.1 The Director may exercise its power to consider a complaint by using conciliation, investigation, immediate consideration of a complaint, or any other means that is fair, just, and expeditious.
- 17.2 Under section 22(1) of the Act, the Director may at any time:
- a) dismiss a complaint as without merit;
 - b) discontinue a complaint because the complainant has refused to accept a fair and reasonable settlement offer; or
 - c) report to the Chief Commissioner.
- 17.3 Notwithstanding that the parties may or may not have engaged in settlement discussions, a complaint may at any point in the process be referred directly to the Director of the Commission to make a final determination. Upon notice that a complaint has been referred directly to the Director of the Commission, the parties may provide:
- a) submissions on why the consideration of the complaint at that point in the process would be unfair or prejudicial;
 - b) additional information for the Director to consider in making a final decision; and
 - c) submissions on whether the complaint should be dismissed, discontinued or referred to the Chief Commissioner.
- 17.4 Where a respondent proposes a settlement offer to the complainant, and requests that the Director discontinue the complaint, as per section 22(1)(b) of the Act:
- a) the respondent may provide submissions, including documentation on the specifics of the proposed settlement, how the offer was delivered, and how the complainant responded; and
 - b) the complainant may respond to the respondent's submissions, providing information on whether the offer was received, and why the complainant refused the offer.
- 17.5 The Director may refuse to consider multiple applications by a respondent for discontinuance.

17.6 Where the Director is considering whether a matter could or should be dealt with, has already been dealt with, or is scheduled to be heard in another forum or under other legislation, under section 22(1.1) of the Act, the Director may consider submissions from:

- a) the potential respondent;
- b) the complainant; and
- c) an affected party such as a trade union.

17.7 A complaint may be closed as having been abandoned, where a complainant cannot be contacted through reasonable efforts or fails to respond within the time limits provided by the Director.

18.0 Report to the Chief Commissioner

18.1 Where the Director refers the complaint to the Chief Commissioner, the Director will provide the following information to the Tribunal Registrar:

- a) a copy of the complaint and response;
- b) a copy of the investigation report or an outline of the particulars of the complaint that the Director intends to rely upon to demonstrate a contravention of the Act;
- c) the order or remedy requested by the Director; and
- d) any other relevant information.

Part 3: Bylaws of the Tribunal

19.0 Application of this part

- 19.1 Part 3 outlines the bylaws of tribunal proceedings, but is not applicable to the Director's proceedings in Part 2 of these bylaws.

20.0 Powers of the Tribunal

- 20.1 The Tribunal will determine how to address a matter before it, and may use procedures other than traditional adjudicative or adversarial procedures.
- 20.2 Proceedings, including a Tribunal Dispute Resolution (TDR), pre-hearing or hearing, may be held in-person, in writing, virtually, or via any other means for the fair, just, and expeditious resolution of the matter.
- 20.3 The Tribunal may finally determine a complaint without further notice to any party who cannot be contacted through reasonable efforts, using the contact information provided to the Tribunal.
- 20.4 On request of a party or on its own motion, the Tribunal may make an order or direction to:
- a) lengthen or shorten any time limit in these bylaws;
 - b) add or remove a party;
 - c) allow any filing to be amended;
 - d) hear complaints together or separately;
 - e) direct that notice of a proceeding be given to any person or organization;
 - f) schedule hearing dates or other dates in a proceeding;
 - g) determine the format, including written or electronic format, in which documents are provided;
 - h) direct the dates for providing documents;
 - i) require a party or person to provide a report, statement, oral or affidavit evidence;
 - j) make an examination of records or make other inquiries;
 - k) direct the order in which issues in a proceeding, including preliminary issues, will be considered;
 - l) define and narrow the issues in order to decide a complaint;
 - m) direct the order in which evidence will be presented;
 - n) exclude a witness from the hearing room until called upon to give evidence;
 - o) limit the evidence or submissions on any issue;
 - p) direct a party to adduce evidence or produce a witness where such evidence or witness is reasonably within the party's control;
 - q) direct that the deponent of an affidavit be cross-examined before the Tribunal;
 - r) permit a party to give a narrative before questioning commences;
 - s) question a witness, and advise when additional evidence or witnesses may assist the Tribunal;
 - t) dismiss part or all of a complaint where the Tribunal determines that another proceeding has appropriately dealt with the substance of those allegations;
 - u) give effect to an order or direction;
 - v) consider public interest remedies after providing the parties an opportunity to make submissions; and
 - w) take any other action that the Tribunal determines is appropriate.

21.0 Tribunal process for filing documents

- 21.1 Parties must file all written communications, including electronic documents, with the Tribunal Registrar, and serve the other parties, using one of these methods:
- a) in-person delivery;
 - b) courier;
 - c) regular, registered or certified mail;
 - d) fax;
 - e) email; or
 - f) as directed by the Tribunal.
- 21.2 The parties must include the following legible information when filing documents:
- a) complaint number;
 - b) name of the complainant and respondent;
 - c) name of the person filing the document and, if applicable, the name of their authorized representative or legal counsel;
 - d) mailing address, telephone number and, if available, email address and fax number of the party filing the document; and
 - e) that the document has been served to all other parties, including the date and method by which the document was served.
- 21.3 A party who indicates that they agree to be contacted by email understands and consents to receive and be served future documents and correspondence by email.
- 21.4 The Tribunal Registrar may determine that:
- a) electronic documents are accepted in a proceeding;
 - b) parties use a particular electronic format; and
 - c) parties sign a document by electronic signature.
- 21.5 Where a document was filed with the Tribunal, but not delivered to the other parties, a party will not be permitted to present the document at a proceeding, except with leave of the Tribunal.
- 21.6 A party must deliver documents to the authorized representative or legal counsel of another party, where one has been named.
- 21.7 A document delivered to the Tribunal or a party will be deemed to have been delivered:
- a) in-person, on the date the document is left with the Tribunal Registrar or the party's last known address;
 - b) by courier, regular, registered or certified mail on the date it is received;
 - c) by fax, when the person sending the document receives a fax confirmation receipt; or
 - d) by email, on the date the document is sent to the email address specified by the Tribunal or the party.
- 21.8 A document to be filed with the Tribunal that is received after 4:30 p.m. will be deemed to have been filed on the next day that the Tribunal office is open.

22.0 Appeal of the Director's decision

- 22.1 The complainant may file an appeal, under section 26 of the Act, to request a review of the Director's decision, no later than 30 days after receiving a notice of dismissal or discontinuance. To file an appeal, the complainant must file with the Tribunal Registrar the following:
- a) written reasons as to why the complainant is requesting a review of the Director's decision; and
 - b) any further information that the complainant believes is relevant to the review.
- 22.2 The Tribunal Registrar will forward the appeal to the respondent, which may file a response no later than 30 days after receiving notice of the appeal of the Director's decision. The response may contain further information that the respondent believes is relevant to the original complaint, and the respondent must file and serve the response with the Tribunal Registrar and the other parties.
- 22.3 The complainant and respondent will provide a citation of each case or piece of legislation referred to in the appeal submissions, but need not provide hardcopies of cases or legislation.

23.0 Carriage of a complaint

- 23.1 The Director has carriage of a complaint unless the complaint has been received by the Tribunal as a result of an appeal of the Director's dismissal or discontinuance.
- 23.2 Where the Director has carriage, the Director may determine the nature and extent of their participation in the Tribunal proceedings.

24.0 Tribunal dispute resolution (TDR)

- 24.1 Once the complaint has been referred to the Tribunal for determination, the parties may be assigned a date and location for mediation through TDR.
- 24.2 The TDR may be held in-person, as a virtual TDR, or via any other means the Tribunal considers appropriate for the fair, just and expeditious resolution of the complaint.
- 24.3 Parties, including the Director, a party's authorized representative or legal counsel, and all other people attending a TDR must sign a *Mediation Agreement*, in hardcopy or electronic format, prior to the commencement of the TDR.
- 24.4 No later than 7 days before a scheduled TDR, the Director and/or the complainant shall file with the Tribunal Registrar and deliver to each party the remedy that is requested to resolve the complaint.
- 24.5 No later than 7 days before a scheduled TDR, the parties may file information or documents they wish to rely upon in the TDR.
- 24.6 A person with authority to settle the complaint on the party's behalf must be present at the TDR.
- 24.7 A party shall not use documents or statements, obtained in a TDR, in another legal forum, except with the consent of all parties to the complaint, and the agreement of the Tribunal.
- 24.8 The Tribunal may determine that an affected person or organization receive notice and participate in the TDR.

- 24.9 Where the parties enter into a settlement agreement as a result of the TDR, the complainant and the Director, if involved, shall file the signed settlement agreement or a *Notice of withdrawal* with the Tribunal Registrar, indicating that the complaint has been settled and the parties have agreed to close the complaint.
- 24.10 The Tribunal may address a claim of an alleged failure of a party to comply with a signed settlement agreement, and the Tribunal may make any order it deems necessary to ensure compliance.

25.0 Appointment of Tribunal Member

- 25.1 The Chief Commissioner may appoint one or more Tribunal Members to hear a complaint or a preliminary matter.
- 25.2 All Members of the Tribunal appointed under the Act must possess a law degree, and have experience, knowledge and training in human rights or administrative law.

26.0 Pre-hearing

- 26.1 The Tribunal Registrar may schedule a pre-hearing conference or hearing on a preliminary matter by telephone, in person or as a virtual proceeding.
- 26.2 A Tribunal Member who conducts a pre-hearing conference or is appointed to hear a preliminary matter is not seized in the matter, unless otherwise indicated.
- 26.3 Before the pre-hearing conference each party will attempt to discuss and agree on:
- a) any preliminary or procedural matters, including whether the matter should be determined orally, in writing, or by other means;
 - b) the names and number of witnesses and expert witnesses the party proposes to call;
 - c) the number of days the party estimates it will take to present their case;
 - d) a list of dates on which each party and their witnesses are available;
 - e) deadlines for exchange of relevant documents between the parties;
 - f) any requested accommodations that the parties or their witnesses will need; and
 - g) any other matters stipulated by the Tribunal.
- 26.4 Unless otherwise determined by the Tribunal, not later than 21 days following the pre-hearing conference, each party shall disclose to the other parties all documents ordered to be disclosed at the pre-hearing conference.

27.0 Tribunal Hearings

- 27.1 The date and location of a hearing may be determined by the Tribunal Registrar.
- 27.2 The parties shall file hearing submissions with the Tribunal Registrar and serve them on the other parties within the following timelines, unless otherwise determined by the Tribunal:
- a) for the Director, 30 days prior to the first scheduled day of the hearing;
 - b) for the complainant who has carriage of a matter, 30 days prior to the first scheduled day of the hearing;
 - c) for a complainant who wishes to make additional submissions to those of the Director, 30 days prior to the first scheduled day of the hearing; and
 - d) for the respondent, 21 days prior to the first scheduled day of the hearing.

- 27.3 The hearing submissions shall include:
- a) an agreed statement of facts, if available;
 - b) a witness list including the names of each witness to appear at the hearing;
 - c) a brief statement summarizing each witness' expected evidence; and
 - d) any documents the party intends to rely upon at the hearing, including a joint book of documents, if available.
- 27.4 Where a party will be calling an expert witness the party shall file a copy of the expert witness' resume and written report or a summary of their proposed evidence 45 days prior to the hearing, or as determined by the Tribunal.
- 27.5 Without the permission of the Tribunal no party may present:
- a) a witness at a hearing, including an expert witness, whose name and summary of expected evidence was not included in a witness list filed with the Tribunal, and served on the parties, in accordance with these bylaws; and
 - b) documents at a hearing that were not filed with the Tribunal, and served on the parties, in accordance with these bylaws.
- 27.6 Where a fact or issue was not raised in the complaint, in the response, or in the Director's process, the Tribunal may refuse to allow a party to present or make submissions about this evidence. Such evidence and submissions may only be allowed where the Tribunal is satisfied that there would be no prejudice to a party and no undue delay to the proceedings.
- 27.7 A person giving evidence to the Tribunal will make an affirmation that their evidence is true.
- 27.8 On the request of a party, the Tribunal Registrar will provide a notice to attend for a witness, which is dated and signed by a Tribunal Member. The requesting party is responsible for delivering the notice to the witness at least 21 days prior to the hearing and for payment of the attendance money and any other expenses.
- 27.9 Where a complainant has been notified of a hearing and fails to respond to the Tribunal, attend a hearing, or fails to comply with an order of the Tribunal, the complaint may be dismissed.
- 27.10 Where a respondent has been notified of a hearing and fails to respond to the Tribunal, attend a hearing, or fails to comply with an order of the Tribunal, the Tribunal may:
- a) proceed in the respondent's absence;
 - b) determine that the respondent is not entitled to further notice of the proceedings, except as determined by the Act;
 - c) determine that the respondent is not entitled to present evidence or make submissions to the Tribunal;
 - d) deem the respondent to have accepted all facts alleged by the other party;
 - e) decide the matter solely on the materials before the Tribunal; and
 - f) take any other action the Tribunal considers appropriate.
- 27.11 Where a party commences an appeal of an interim decision of the Tribunal, the Tribunal may proceed with hearing the complaint unless otherwise ordered by the Tribunal or the Court.

28.0 **Stated case**

- 28.1 The Tribunal may state a case on a question of law for the opinion of the Alberta Court of Queen's Bench, at any stage in the proceedings before the Tribunal.
- 28.2 Upon deciding to state a case, the Tribunal will provide the Court with the stated question of law. The Tribunal may also provide the Court with:
- a) the record of the complaint;
 - b) factual findings based on the hearing of the complaint;
 - c) a determination of the legal and human rights issues that the complaint engages; and
 - d) any legal findings of the Tribunal Member regarding the complaint, including the issues outlined and the evidence heard.
- 28.3 The Tribunal may adjourn a hearing for the purpose of making the stated case to the Court.

29.0 **Public hearings, anonymization and recordings**

- 29.1 Hearings are open to the public, except as may be determined by the Tribunal in order to protect the privacy interests of parties, or in other exceptional circumstances.
- 29.2 Any party may request that the Tribunal hold a hearing in private because of the confidential nature of the matter.
- 29.3 Written decisions of the Tribunal are posted in the public domain. In exceptional circumstances, the Tribunal may make an order to protect the confidentiality of personal or sensitive information in a written decision.
- 29.4 Tribunal decisions will use initials to identify children under age 18. Tribunal decisions may use initials to identify other parties and participants in a hearing, where it is necessary to protect the identity of minors or of an individual's health or other sensitive information.
- 29.5 The Tribunal may record a hearing to fulfill the requirements under the Act. No other person or party may record a hearing, without the advance permission of the Tribunal.

30.0 **Withdrawal of a complaint**

- 30.1 A complainant wishing to withdraw a complaint, must file with the Tribunal Registrar and serve the parties a completed, *Notice of Withdrawal*.
- 30.2 A respondent may respond or object to a *Notice of Withdrawal* no later than 5 days after it is delivered to them.
- 30.3 Where there is no objection to the withdrawal from another party, the Tribunal will accept the withdrawal and the complaint will be closed on such terms the Tribunal deems appropriate.
- 30.4 Where there is an objection to the withdrawal from another party, a complaint may only be withdrawn upon such terms as the Tribunal determines.

31.0 Reconsideration

- 31.1 On its own motion or at the request of a party, the Tribunal may reconsider a decision including where there is evidence that:
- a) is new and was not available at the initial hearing; and
 - b) for good reason, was not presented before the Tribunal.
- 31.2 The Tribunal will only reconsider its decision where the proposed new evidence is likely to be determinative of the outcome of the complaint.
- 31.3 A reconsideration is an extraordinary remedy, and is not an appeal of a Tribunal decision, nor can it be used to repair the deficiencies of a party's case.
- 31.4 A party may request a reconsideration of a Tribunal decision no later than 30 days after the decision was made.
- 31.5 The Tribunal will determine whether the circumstances warrant reconsideration and may ask for submissions from the parties. The other parties need not provide a response to a request for reconsideration unless directed to do so by the Tribunal.
- 31.6 A reconsideration may be assigned to the Tribunal Member who made the original decision or to another Tribunal Member.

32.0 Costs

- 32.1 A party who, prior to the conclusion of a hearing, has given notice that costs will be requested, may no later than 7 days following the release of the Tribunal's decision, file with the Tribunal Registrar and deliver to the parties:
- a) written submissions outlining the reasons an award of costs is warranted; and
 - b) the amount of costs requested.
- 32.2 The other parties are not required to respond, unless requested to do so by the Tribunal.
- 32.3 Where the Tribunal requests a response from a party against a costs order, the party shall, no later than 7 days after the request is made from the Tribunal, file a response, including reasons why they believe a costs order is not appropriate.

These bylaws are in accordance with section 17 of the Act. Approval by the Minister rescinds any previous bylaws.

Submitted by

Approved by

[Original signed by]

[Original signed by]

Michael Gottheil
Chief of the Commission and Tribunals
Alberta Human Rights Commission

Honourable Kaycee Madu
Minister of Justice and Solicitor General

September 30, 2020

December 1, 2020