

CPHR

British Columbia
& Yukon

Compliance Standard

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Definitions

In this *Compliance Standard*:

Alternate Dispute Resolution means a due process or mechanism by which a Complaint may be resolved through such alternate methods as dialogue, mediation, negotiation, arbitration, summary decision, or agreement as decreed by the Complaints & Discipline Committee.

Appeal Committee means a committee duly appointed by the Association to hear and to render judgement on appeals of decisions rendered by the Complaints & Discipline Committee.

Association means the Chartered Professionals in Human Resources of British Columbia and Yukon.

Board means the Board of Directors of the Association.

CPHR BC & Yukon means the Chartered Professionals in Human Resources of British Columbia and Yukon.

Client means the person or entity engaging an Association member as an independent practitioner or contractor for the performance of professional human resources management services.

Code means the Code of Ethics and Rules of Professional Conduct of the Association.

Complaints & Discipline Committee means a committee of the Association tasked with the performance and documentation of an investigation, the collection of evidence, the assertion of its finding and ultimate resolution of a complaint.

Complainant means an individual or entity who files a complaint with the Association about a member.

Complaint means a written or verbal communication received by the Association alleging misconduct by a member of the Association.

Confidential Information means any information that is shared through any means or format with the reasonable expectation that such information not be divulged to another party or person.

CPHR means the Chartered Professionals in Human Resources designation as may be issued only by authorized provincial and territorial bodies.

Employer means a legal entity that hires and directs a member and/or others under an implied or express contract of employment and pays compensation in the form of salary or wages for services rendered.

Enquiry means the systematic investigation of an incident, event, or conduct relying on the collection of information and through questioning and other means with a view to informing a finding.

Firm means a proprietorship, partnership, limited liability partnership, or professional corporation, independent of the contracting party, engaged in the practice of human resources management services.

Independent practitioner or **independent practice** means a member publicly and regularly practicing and providing human resources management services for professional fees; not serving as, or constituting, an employee of the hiring organization(s).

Investigator means an independent examiner duly appointed by the Complaints & Discipline Committee of the Association to collect information and statements of fact resulting from the lodging or determination of a complaint against a member or firm with the Association.

Malpractice means the delivery of inferior or substandard services by a member failing to provide the quality of service that would be reasonably expected under the circumstances potentially resulting in harm, loss or damage to a client or employer.

Member means a member in good standing of the Association holding the Chartered Professional in Human Resources (CPHR) designation or other form of membership duly recognized by the Association.

Misconduct means the unacceptable or improper behaviour, conduct, or comportment of a member including also mismanagement and neglect of duties.

Principle means a general, fundamental, or primary, truth, edict, or tenet which the Association proclaims from which others are derived and from which rules engendered.

Profession means the profession of human resources management.

Rule means a directive governing conduct, action, arrangement, process, behaviour, or performance that members shall abide by.

Introduction

The Chartered Professionals in Human Resources of British Columbia and Yukon (CPHR BC & YK) establishes and promotes compliance with human resources management standards, rules and best practices with a view to protecting the interests of the public through the effective certification and empowerment of skilled human resources management professionals. In order to deliver on this pledge, CPHR BC & Yukon has interest in ensuring that human resources professionals are competent, that they conduct themselves in an honourable and ethical manner, that process is followed in instances of alleged malpractice or wrongdoing, and that remedial measures are pursued when the circumstances command or warrant. In short, CPHR BC & Yukon and its members acknowledge that human resources management professionals must exercise a number of important character traits while possessing also the acumen and skill to make adept authoritative and moral judgements – and that a regime of investigation and discipline may be occasionally called upon where a member’s performance or conduct is called into question.

Serving as a complement to the CPHR BC & Yukon ***Code of Ethics & Rules of Professional Conduct***, this ***Compliance Standard*** represents the Association’s investigative and disciplinary protocol in matters and dealings of actual, perceived, and alleged failure of a member to satisfy the high professional standards of the Association. Intent to ensure due process and accountability, this Compliance Standard shall be enforced and administered by Association delegates with efficiency, fairness, and transparency.

This ***Compliance Standard*** shall be applied in a manner and means consistent with, and reliant on, the provisions of the Association’s ***Code of Ethics & Rules of Professional Conduct*** as may be from time to time revised.

Importantly, members are reminded that both the ***Code of Ethics & Rules of Professional Conduct*** and the ***Compliance Standard*** apply to all certified members, as employees and those engaged in independent practice, either providing services within or outside of their own jurisdiction; recognizing also that other jurisdictions may impose alternate standards or employ variant practices that may likewise impart responsibilities, obligations, and treatment onto a member. In all instances, the member is further counselled to abide by any and all jurisdictional laws or statutes, which shall take precedence over the ***Code*** or this ***Standard***.

1. General Provision

1.1 CPHR BC & Yukon Code of Ethics a & Rules of Processional Conduct (Code):

- 1.1.1 Association members have enduring duty to conduct themselves in an ethical and professional manner as provided for, and prescribed by, the CPHR BC & Yukon Code.
- 1.1.2 An Association member employed or engaged in a jurisdiction outside of CPHR BC & Yukon's catchment area of British Columbia and the Yukon shall, to the reasonable extent, abide by the CPHR BC & Yukon Code while upholding and satisfying in priority the provisions of any affiliated or counterpart human resources management Association of the assignment jurisdiction.
- 1.1.3 Where the CPHR BC & Yukon Code departs from, conflicts with, contrasts or contravenes any Act or legislation, statute, or regulation, the Code and any standards of the Association shall cede to the prominent law and its provisions.

1.2 Breach of the Code:

- 1.2.1 A breach of the Code includes, but is not necessarily limited to any of the following:
 - i) Perpetration of, or known involvement in, criminal activity;
 - ii) Performance of acts or omissions having likely potential to cast disrepute onto the human resources management profession or the HRMA;
 - iii) Violation of ethical principles or rules of professional conduct of the Association;
 - iv) Contravention of professional or practice standards of the Association;
 - v) Commission of gross professional negligence or malpractice;
 - vi) Failure to maintain records as required by law or by virtue of membership in the Association; or,
 - vii) Execution of less serious offences or infractions which, cumulatively, may signify unfitness to use the designation of CPHR or be granted membership to the Association.

1.3 Roles of Delegated Officials

- 1.3.1 In discharging the obligations and duties of the investigation and adjudication processes, reliance shall be placed on the two distinct constructs comprising of the Complaints & Discipline Committee and the Appeal Committee. The separation of functions performed by these individual constructs are designed to enhance fairness, impartiality, and due process in investigating and adjudicating Complaints brought against a member.

1.4 Local Laws and Customs

- 1.4.1 Where an Act or legislative provision sets out the investigation and discipline process of an Association member or profession, this Compliance Standard shall cede to the provisions of the prominent law; recognizing however that the Association may impose remedial or punitive judgement against a member to the extent that such action is not precluded by the aforementioned laws and provisions.

2. Investigation & Enquiry Process

2.1 Composition of Complaints & Discipline Committee

- 2.1.1 The Complaints & Discipline Committee, comprising of not less than three (3) members, shall be supported by the Registrar and may include staff members having knowledge of the CPHR BC & Yukon Code and Compliance Standard.
- 2.1.2 The Complaints & Discipline Committee may engage and consult with legal counsel for the purposes of ascertaining and affecting evidentiary, procedural, and other legal procedures.
- 2.1.3 The Complaints & Discipline Committee shall be bound by P6, Cautionary Treatment of Confidential Information, of the CPHR BC & Yukon Code of Ethics & Rules of Professional Conduct.

2.2 Originating Event and Process Initiation

- 2.2.1 An allegation, claim, or criticism against a member will typically emerge from an originating incident, event or chain of events which in the view of the Complainant or the Association are sufficiently material to initiate a formal complaint or examination of facts.
- 2.2.2 The investigation process will be initiated upon receipt by the Association of a Complaint against a member or firm (complaint-based) or otherwise by virtue of adverse particulars in regards to a member or firm received by the Association from reliable sources (information-based).
- 2.2.3 Information-based initiations shall permit the Association to direct a matter to the Complaints & Discipline Committee in the absence of formal complaint when information from reliable sources has been provided to the Association indicating the possibility of member misconduct. Important in identifying potential cause for concern at an early stage and in providing public interest assurance, information-based examinations promote transparency and accountability of the Association and its members.
- 2.2.4 Upon receipt of formal complaint against a member or finding of information-based justification, any process initiation shall be herein referred to as a "Complaint".

2.3 Preliminary Screening

- 2.3.1 Where the Complaints & Discipline Committee determines that a complaint is frivolous, vexatious, malicious, insufficiently legitimate, or inadequate to warrant sanction, the Committee may decline to examine or investigate such complaint.

2.4 Notice of Enquiry

- 2.4.1 The notice of enquiry must:
 - provide reasonable notice to the member of the time and place of the enquiry;
 - indicate which provisions of the Code are alleged to have been breached; and,
 - provide the member with sufficient particulars of the Complaint and the evidence to enable the member to respond to the allegations and present defence.

2.5 Enquiry

- 2.5.1 The enquiry shall be conducted as efficiently and expeditiously as the circumstances and fairness warrant.

2.6 Investigation

- 2.6.1 All powers necessary to enable authorized individuals to conduct an effective investigation are vested in, and with, the Complaints & Discipline Committee.
- 2.6.2 The Complaints & Discipline Committee may engage or commission an independent investigator or staff delegate to conduct the investigation of the complaint and shall delegate such authority to the Investigator or staff delegate as is reasonably necessary to complete the investigation.
- 2.6.3 Any individual who assists the Complaints & Discipline Committee in an investigation, including the Investigator, shall be personally independent from: (a) the subject of the investigation; and (b) anyone connected with or interested in the matter investigated. If a conflict exists at the outset or arises during the investigation, the Investigator shall immediately withdraw. Similar considerations shall apply equally to anyone connected with the assessment, hearing, or determination of cases.
- 2.6.4 When a decision is made to investigate a Complaint, the member to whom the Complaint applies shall be notified by the Complaints & Discipline Committee of the existence of the Complaint and provided with enough information regarding the Complaint to understand the nature of the allegations.
- 2.6.5 Members and firms are required to cooperate in the investigation of Complaints and to respond promptly, in the manner specified, to all communications from the Complaints & Discipline Committee or the Investigator. Such cooperation shall include being available for interviews as well as producing any documents requested by the Complaints & Discipline Committee, the Investigator, or their duly appointed delegates.
- 2.6.6 The Association shall ensure the availability of appropriate expertise and adequate financial and other resources to ensure timely investigative and disciplinary action. The Association shall ensure that all investigative and disciplinary processes are consistent with the rules of natural justice and applicable laws.

2.7 Report of Investigation

- 2.7.1 If one is appointed, the Investigator or staff delegate shall compile a written report of the information obtained in the course of the investigation.
- 2.7.2 Before such report is provided to the Complaints & Discipline Committee, the member should, subject to Association discipline procedures, have the opportunity to review the report in order to provide comments with respect to any inaccurate information deemed by the member to be contained therein. The Investigator shall review the comments from the member and may, in his or her absolute discretion, make a determination to include, change, or note the asserted disparities identified by the member.
- 2.7.3 The Investigator or staff delegate shall provide the final report to the Complaints & Discipline Committee.

2.8 Rights of Member

- 2.8.1 The member or firm subject to the Complaint is entitled to make representations in any form acceptable to the Complaints & Discipline Committee. If the member or firm who is the subject of the enquiry elect not to present a defence or to appear other than for bona fide reasons, the proceedings will nevertheless progress as scheduled.
- 2.8.2 Qualified legal counsel or another person chosen by the member may accompany and represent the member at all disciplinary enquiries and advise him/her throughout the investigative and disciplinary process.

3. Direction by Complaints & Discipline Committee

3.1 Pronouncement by the Committee

- 3.1.1 Upon receipt of the Investigator or staff delegate's report and the completion of any investigation and enquiry processes, the Complaints & Discipline Committee shall review the evidence and rule on the allegation giving rise to the contended breach of the Code.
- 3.1.2 Based solely on its findings, the Complaints & Discipline Committee, may:
- dismiss the complaint;
 - refer the Complaint to Alternative Dispute Resolution; or,
 - render a finding and, as deemed reasonably fitting, impose remedial sanction.

3.2 Decision to Dismiss

- 3.2.1 The Association shall, relying on the authority and processes administered by the Complaints & Discipline Committee, dismiss complaints having been determined groundless under Section 2.3.1 of this Compliance Standard, or having been found void of a Code violation.

3.3 Decision to Refer

- 3.3.1 The Complaints & Discipline Committee shall have the right to dispose of any matter deemed suitable for Alternative Dispute Resolution. In the event that a matter that has been referred for disposition to the Alternative Dispute Resolution process cannot be resolved, the matter shall be reverted to the Complaints & Discipline Committee.
- 3.3.2 Where the Complaints & Discipline Committee has referred the Complaint to Alternate Dispute Resolution and has found that there is credible evidence that it would not be in the public interest to allow the member to continue practicing, the Complaints & Discipline Committee may suspend the member from membership until the matter is appropriately disposed of.

3.4 Decision to Sanction

- 3.4.1 In cases where the Complaints & Discipline Committee determines that the Complaint has been proven, it may impose a sanction, including:
- reprimand;
 - loss or restriction of membership or practice rights;

- mandatory attendance (including successful completion) of professional development courses, programs of study, or examinations or inspections;
 - fine and/or payment of costs;
 - suspension of membership or practice rights and/or surrender of CPHR designation;
 - expulsion from membership;
 - bar from reinstatement; or,
 - any combination thereof.
- 3.4.2 When determining the appropriate sanction(s), the Complaints & Discipline Committee may take into consideration any previous findings against the member.
- 3.4.3 The finding that there has been a breach of the Code and any sanction imposed by the Complaints & Discipline Committee must be communicated in writing to the member within a reasonable period of time following the investigation or enquiry.
- 3.4.4 In cases where there has been a finding of a breach of the Code, the decision and reasons shall be published (including consideration of publicly identifying the matter on the Association website, together with the identity of the member or firm and an account of the allegations, or the allegations, findings and sanctions) unless the Complaints & Discipline Committee determines that publication of the finding and sanction, as well as the member's name, is not required in the public interest.

4. Appeal Process

4.1 Composition of Appeal Committee

- 4.1.1 The Appeal Committee shall comprise of three (3) to five (5) members duly appointed by the Board of Directors inclusive of not less than one (1) Public Representative.
- 4.1.2 The Appeal Committee may call and rely upon a staff delegate such as the Registrar to coordinate meetings, present cases, maintain records of its proceedings, and perform ancillary administrative functions relating to the conduct of its affairs.
- 4.1.3 The Appeal Committee shall not include a member of the Complaints & Discipline Committee.
- 4.1.4 The Appeal Committee may consult legal counsel with respect to evidentiary, procedural, and other legal matters as required.

4.2 Right of Complainant or Member to Appeal

- 4.2.1 A Complainant of member may notify the Association in writing that such Complainant or member wishes to appeal the decision of the Complaints & Discipline Committee.
- 4.2.2 Such notice shall be provided within such reasonable time limit as may be set by the Association not to exceed thirty (30) days from the date of the communication referred to in section 3.4.3 herein and shall include a summary of the grounds for appeal.
- 4.2.3 Any sanction imposed against the member may be suspended pending the decision of the Appeal Committee, as appropriate in the circumstances.

4.3 Hearing of Appeal

- 4.3.1 Those involved in the proceedings before the Appeal Committee shall include, as applicable, the Complainant, the member to whom the Complaint applies, legal counsel, and may include representation from the Complaints & Discipline Committee and/or Association staff having knowledge in regards to the proceeding.
- 4.3.2 The Appeal Committee shall, upon referral of the appeal by the Association:
- set a date for hearing of the appeal and give notice of the time and place for hearing;
 - conduct a review of the finding and/or sanction imposed by the Complaints & Discipline Committee in accordance with the grounds for appeal;
 - proceed solely on the basis of the transcript of the evidence at the Complaints & Discipline Committee enquiry and the exhibits presented;
 - accept new evidence in exceptional circumstances;
 - render a decision; and,
 - issue an order in writing with reasons for its decision.
- 4.3.3 The Association may, at its discretion, set out on its website the place, date, and time of each appeal hearing, together with the name of the member, a description of the allegation(s), and notice that the hearing is open to the public.

4.4 Orders of Appeal Committee

- 4.4.1 The Appeal Committee may make any order it deems appropriate in the circumstances, including:
- dismissing the appeal;
 - allowing the appeal and redirecting the Complaint to the Complaints & Discipline Committee for reconsideration or supplemental enquiry; or
 - allowing the appeal and substituting its decision for that of the Complaints & Discipline Committee.

5. Publishing of Decision

- 5.1.1 A decision taken by Appeal Committee shall be communicated to the Association, to the members of the Complaints & Discipline Committee, to the Registrar, to the Complainant, and to the member to whom the Complaint applies.
- 5.1.2 The Association shall require, in respect of a final decision and order of the Appeal Committee, that notice of the final decision and order disclosing the identity of the member:
- be directed to the Association's Board of Directors or delegated governance committee; and,
 - be reasonably accessible to members of the Association and the public; recognizing, however, that where the Appeal Committee, as appropriate, has ordered that the identity of the member not be disclosed, the publication of notice shall not disclose the identity of the member.
- 5.1.3 Where a member is expelled from membership or where public interest otherwise warrants, notice may be published on the Association's website and in a local newspaper or other appropriate communication medium in the jurisdiction of the member.

6. Administrative Processes

- 6.1.1 The Association shall establish time guidelines for the administration and closing of all cases and be diligent in rendering its decisions and communicating with interested parties.
- 6.1.2 The Association shall maintain and operate tracking mechanisms to ensure that all investigations and enquiries are promptly handled, and that all necessary action is taken at the appropriate stage. These mechanisms shall include a form of exception reporting. This requires the Complaints & Discipline Committee to report any material delay in investigation or enquiry to a designated person against which a complaint is lodged.
- 6.1.3 The Association shall introduce and maintain a procedure requiring notification to all persons employed or otherwise participating in the investigative and disciplinary processes (or having access to information concerning such processes) of the importance of maintaining confidentiality.
- 6.1.4 The Association shall maintain secure and confidential facilities for the storage of case documents and other evidence.
- 6.1.5 Where there has been a finding of a breach of the Code, the Association shall maintain complete records of all investigations and disciplinary processes both during the proceedings and for the retention period the Association establishes for these purposes.
- 6.1.6 The Association Registrar shall prepare and make an annual report summarizing the results of the investigative and disciplinary proceedings.
- 6.1.7 The Association shall perform regular reviews of the proper implementation of the investigation and disciplinary mechanisms it has established to ensure it can effectively address misconduct or breach of the Code. When such reviews reveal deficiencies or malfunction of the proper functioning of the system, the Association shall take corrective action to ensure the deficiencies are addressed as soon as practicable.
- 6.1.8 Where a formal enquiry has been held and the member found not to be in breach of the Code, all records and documentation pertaining to the complaint shall be retained in accordance with the document retention policies established by the Association.

7. Effective Date

This Compliance Standard shall have an effective date of July 1, 2016 or in the event that the Association secure self-regulatory authority, upon the date which such condition comes into force recognizing that accommodating provisions may correspondingly be instituted.



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