

SECTION 4: APPENDIX C: ONA QUESTIONNAIRES & LETTERS



Discrimination Questionnaire

** To be completed by the Grievance Committee in conjunction with the grievor.

ONA GEL File #: _____ Grievor Name: _____
Bargaining Unit
Grievance #: _____ Employer: _____

Introduction

A grievance alleging discrimination has been filed or is being considered by ONA.

Discrimination means a distinction, whether intentional or not, which has the effect of imposing burdens, obligations or disadvantages on an individual or group not imposed on others, or which withholds or limits access to opportunities, benefits, and advantages available to others.

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

In most cases, harassment refers to a pattern of objectionable behaviour involving a series of incidents that may be similar or different in nature. In some cases, there may be a single incident of vexatious behavior that occurs but it is serious enough to amount to harassment.

Noted below are a number of questions that deal with this grievance. The reason for asking for this information is to assess the best way in which ONA can assist in resolving the issues.

Should this grievance proceed to arbitration and then on to a hearing, it is necessary for the arbitrator to hear about events at the time that the grievance was filed. The arbitrator will look at all the evidence put forward by ONA and the employer and decide whether discrimination has occurred that is contrary to the Ontario Human Rights Commission and the collective agreement.

It is up to ONA to convince the arbitrator that discrimination has occurred. In some cases, discrimination, i.e. unequal treatment, can be proven with documents and the testimony of the grievor and independent witnesses. If the employer cannot provide a credible explanation for its actions or decisions, an arbitrator may find that there has been discrimination. The more direct evidence that ONA gathers, the more likely the grievance will be successful. We therefore, need considerable help in gathering the evidence.

Questions

Please identify each incident where the grievor believes she/he was discriminated against. Then for each incident, answer the following questions using both sides of the paper if needed:

1. (a) Which of the following prohibited grounds of discrimination are involved: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including pregnancy, gender identity, and gender expression), sexual orientation, age, record of offences, marital status, family status and disability.
 - (b) Is the discrimination related to other grounds such as Union membership or activity or any other factor which is not pertinent to the employment relationship? Please explain.
 - (c) Why does the grievor believe that the discrimination is related to the prohibited grounds?
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2. Please describe how incident(s) #1, 2 ... etc., occurred in the following ways: [remember who was present, when (i.e. dates), where].
 - (a) What was communicated?
 - (i) How was it communicated?
 - (i) Who said it?
 - (ii) When was it said?
 - (iii) Where was it said?
 - (iv) Who was present? Get names of all witnesses to the situation.

- (b) What was done?
 - (i) Who did it?
 - (ii) When was it done?
 - (iii) Where was it done?
 - (iv) Who was present? Get names of all witnesses to the situation.
 - (v) What did the grievor understand or perceive about what was communicated?
 - (c) What is the explanation or reason that the employer gave for its decision?
3. How did the discrimination disadvantage the grievor?
- (a) What negative impact did it have on the grievor?
 - (b) Have there been any physical and/or mental/psychological impacts on the grievor's health as a result of the discrimination?
☐ Yes ☐ No
Who knows about the impacts? (i.e. doctors, family, therapists). Note: At a later stage, the Grievor may be asked to sign a consent form to release relevant medical information to ONA. ONA will ensure the privacy and confidentiality of this information.
 - (c) What financial losses did she/he suffer?
- Are there other losses or disadvantages experienced by the grievor? Please identify all losses.

4. Was the action taken against the grievor like or unlike to action taken in similar circumstances?

Please comment:

5. Has the grievor been disciplined/terminated?

☐ Yes ☐ No

If yes, have others been disciplined/terminated for a similar reason? Please describe. Who else has done the same thing without receiving the same discipline/termination?

6. Is there much diversity among the staff at this institution?

☐ Yes ☐ No

Are there many people of colour/racialized people; persons with disabilities; are there any LGBT members who have self-identified in the workplace?

☐ Yes ☐ No

Is there diversity in the Bargaining Unit membership; in management; and in the grievor's unit?

7. (a) Does the employer have an anti-discrimination/harassment policy? Please attach a copy.

☐ Yes ☐ No

- (b) Was the manner in which the grievor was treated consistent or inconsistent with the policies, procedures and practices of the employer?

☐ Yes ☐ No

If inconsistent, please describe:

Were any policies, procedures and practices changed?

☐ Yes ☐ No

If yes, when and why?

(c) Has the grievor filed a complaint under the employer's workplace policy? Please attach a copy and indicate the status of the complaint.

☐ Yes ☐ No

8. Is the employer aware, or has the employer ever been made aware prior to this grievance, of a perception of discrimination?

☐ Yes ☐ No

If yes, please describe each occasion; by whom, to whom, what was said and employer's response.

9. Ask the grievor for a copy of their resume. If they do not have one, ask she/he to write out their employment history and education. Particular emphasis should be placed on the work history with this employer i.e. what unit did grievor start on? When? Any transfers? Any gaps?

10. Please provide approximate dates of last performance appraisals. Ask for copies of performance appraisals.

Conclusion: Points to bear in mind and for Grievor to be aware of:

1. It is important to gather the information that was not answered in the questionnaire as soon as possible.
2. Please provide a copy of any documents that may relate in any way to the grievance. List any documents attached.
3. If there are other situations thought of later, write them down and advise ONA as soon as possible. Keep a copy of all notes and documents for themselves.
4. The member has the right to have a union representative and ONA will assist them when they are going through employer process.