

October 27, 1999

Interpretation Bulletin #2 - Harassment Investigators

Article 2.3.2 – Harassment Investigators

On September 1, 1999 JADRC met with harassment Investigators named pursuant to Article 2.3.2 of the Common Agreement to review procedural requirements. Following this session and the September 2, 1999 JADRC meeting, we agreed to offer these clarifications for your assistance in the interpretation of the provisions.

1. Referrals to an Investigator pursuant to Article 2.3.2 should, where possible, include a written statement from the complainant and the alleged-harasser which succinctly outlines the issue(s) in dispute. This referral should be assembled by the Institution and forwarded to the Investigator with a copy sent to the Union.
2. Investigators will stress the confidentiality of the investigation with the persons interviewed.
3. The report of the Investigators will be given, in confidence, to the Union(s) and the Employer. It is the Employer's responsibility to forward a copy of the report to the complainant and the alleged-harasser. The employer will state in the letter that the report is confidential.
4. The report of an Investigator should refer to the individuals involved by initials only. However, a key will be provided to the Employer and Union for internal use. This practice should be repeated at any subsequent arbitral proceeding and we would encourage counsel for the parties to confirm this practice with an Arbitrator.
5. An extension may be provided to an Investigator pursuant to Article 2.4.1 if deemed appropriate by the local parties. If a dispute arises with respect to the extension, the matter will be referred to JADRC. It is hoped that such extensions will not become a common trend given the interest of the parties to expedite the resolution of the dispute wherever possible.
6. The findings of the Investigator will include, where possible, a determination of whether any harassment occurred or not. It will not include any reference to discipline. It is expected that an Employer may determine disciplinary sanctions upon receipt of the findings pursuant to Article 2.4.1. This action may be grievable as provided at Article 2.5.1.
7. Should a complainant file a complaint under the provisions of the Human Rights Code, it is anticipated that current policy of the Commission dictates that the complaint will be set aside by it until such time as internal procedures under a collective agreement are completed. We are advised by the Investigators that it is likely that a report of an Investigator would be relied upon by the Human Rights Commission.

8. It is appropriate for the local parties to use the report of the Investigator to assist in the development of an Agreed Statement of Fact for an arbitral proceeding.
9. Where an allegation includes both complaints(s) under a provision of the Human Rights Code and personal harassment under a provision of the local agreement, the local parties may agree to have the Investigator investigate all of the complaints, in order to relieve against the expense of duality of process.
10. Should retaliation be alleged following the filing of a complaint, an Investigator may deal with that allegation and make a finding.

In addition to the foregoing, Employers are reminded of the provisions of Article 2.1 wherein a commitment is made to offer educational training programs designed to prevent harassment and to support the administration of institutional policies. We ask that this bulletin be shared with local Harassment Officers for inclusion in training materials.

We also note the provisions of Article 2.7 and request that, where necessary, meetings be scheduled for the purpose of coordination between multi-bargaining units.

The agreed list of Harassment Investigators is attached for the use of the local parties at their option pursuant to Article 2.3.1 and as required under Article 2.3.2.