

Employment Standards Compliance Policy

Philosophy

The Employment Standards Code and Regulations (Code) establish minimum standards of employment for most employers and employees working in Alberta.

Employers and employees share responsibility to comply with the legislation and are best able to manage their affairs when statutory rights and responsibilities are clearly established and understood.

Where employment disputes arise and the parties are unable to resolve the matter on their own, the Code provides a fair and equitable dispute resolution mechanism that includes investigation, enforcement and appeal provisions.

Targeted inspection programs are developed to ensure compliance when an individual complaint discloses broader non compliance at a workplace. In the case of vulnerable workers or where employers demonstrate ongoing non-compliance with monetary entitlements, Employment Standards will pursue retro-active correction of unpaid earnings for all employees. Prosecution will be considered as a last resort to achieve compliance with the Code.

Outlined below are the four progressive steps to achieving Code compliance:

1. Information/Education/Self-Help

Employment Standards provides employers and employees with access to a wide range of information, publications and education services through storefront offices, a comprehensive website, a toll-free telephone call centre, partnerships with industry associations and the delivery of formal workshops and seminars.

Self-help tools have been developed to assist the parties resolve workplace disputes without the need for direct government intervention. Use of self-help tools is not mandatory prior to filing a complaint.

2. Individual Complaint Investigations

If an employer and employee cannot resolve a dispute on their own, the employee (or former employee) may file a complaint. When a third party is concerned that an employer is not complying with the Code, the third party can also bring the concern to the Department's attention.

Employment Standards assesses all employee complaints and third party inquiries to determine the most appropriate course of action based on the circumstances. The overall objective is to ensure employees receive their full entitlements under the Code.

Employment Standards officers investigate employee complaints. Each investigation includes an educational component for both parties to the dispute. Employment Standards also has a variety of formal enforcement tools at its disposal, including:

- Notices to Produce Employment Records
- Notices of Decision of Officer
- Orders of Officer
- Directions of Officers
- Audits
- Director's demands to third parties
- Single Employer Declarations
- Director's Certificates

As a form of dispute resolution, mediation will be considered by an officer in situations where:

- Insufficient or contradictory evidence exists concerning the exact entitlements,
- The parties request assistance in mediating a resolution to their dispute, or
- The normal complaint process is unlikely to result in collection of the full entitlements due.

Mediated resolutions can include the collection of full entitlements.

Where an individual complaint investigation discloses broader monetary non-compliance at a workplace, employers will be directed to correct the matter immediately. These employers will be advised of the availability of Employment Standards educational sessions. In targeted industries, a follow-up inspection will be conducted to ensure the employer corrected the problem. In addition, the names of these employers will be referred to Employment Standards' Education/Best Practices area, for proactive educational involvement.

3. Proactive Targeted Employer Initiatives

Employees under 18 years of age and temporary foreign workers (TFWs) have been identified as being some of the most vulnerable to abuse in the workplace.

Complaints involving the inappropriate employment of children are investigated on a priority basis. Employers of TFWs are selected for proactive inspections to ensure all employees have been paid in accordance with the Code. Where monetary non-compliance is established, the employer will be directed to correct the situation on a retro-active basis.

Employers selected by Employment Standards for demonstrating ongoing non-compliance with the Code will also be directed to correct the situation on a retro-active basis.

4. Prosecution Under the Code

Employment Standards will consider the following three factors before recommending prosecution under the Code:

- The seriousness of the offense,

- Whether alternatives to prosecution have proven ineffective,
- Whether there is sufficient evidence to conclude there is a reasonable likelihood of conviction.

If a recommendation to commence prosecution proceedings is supported in the department, an Alberta Justice Crown prosecutor will assess the recommendation and then determine if it is in the public interest to proceed with a prosecution under the Code.