

Pride Toronto Dispute Resolution Process

Background

Pride Toronto exists to celebrate the history, courage, diversity and future of Toronto's LGBTTIQQ2SA* communities. (* Lesbian, Gay, Bisexual, Transsexual, Transgender, Intersex, Queer/Questioning, 2 Spirited, Allies)

Pride Toronto's vision is to:

- Run a not-for-profit organization, committed to volunteers and staff
- Create a safe space to engage communities in the celebration of their sexuality
- Coordinate a series of pre-eminent arts & cultural events, including the annual Pride celebration, that empower and support our communities
- Connect with and help develop our communities, fostering essential partnerships
- Capture and build upon our organization's and our communities' history
- Provide a platform for education through a significant public presence

Pride Toronto is governed by various Policies including but not limited to:

- Anti-Harassment and Discrimination Policy
- Dispute Resolution Process
- Parade/March Participation Terms and Conditions Agreement
- City of Toronto Anti-Harassment and Discrimination Policy
- Pride Toronto Purchasing and Conflict of Interest policies

Parade Participation

Pride Toronto is responsible to consider applications from groups and organizations requesting to participate in the Pride parade and march. In the consideration process Pride Toronto reviews applications based on compliance with its governing policies and its mission and vision as a non-profit organization (see the Parade/March Participation Terms and Conditions Agreement).

What is the Objective of the Dispute Resolution Process (DPR)?

Pride Toronto has established a Dispute Resolution (DRP) process to provide an objective, transparent appeal mechanism to review and resolve complaints about participation in the Pride parade and march.

This process is the first of its kind in relation to reviewing complaints about Pride Parade participants anywhere in the world. Pride Toronto recognizes that the rules and the process are new and may need to be amended from time-to-time to ensure the process is working effectively. Pride Toronto will seek input from the community, its membership, the Dispute Resolution Officers, complainants and respondents to inform those amendments.

The Dispute Resolution Process (DRP) will only consider complaints about the participation or exclusion of a group in the Pride parade or march. The objective of the DRP is to resolve, correct and remedy behaviours that are contrary to Policy, to ensure fair application of the rules for Parade and march participation, and to ensure compliance with those rules and applicable legislation.

What Complaints are Outside the Jurisdiction of the Dispute Resolution Process (DRP)?

Complaints that require Board and membership consideration, or approval (for example, changing the mission or mandate of Pride Toronto) will not be considered through the Dispute Resolution Process. Although the DRP may recommend Pride Toronto review its governing documents including those that require membership approval, the DRP does not have jurisdiction to change any of the rules, policies, or governing principles of Pride Toronto.

Complaints about Pride Toronto's activities, services and decisions will not be considered through the DRP unless the decision relates to alleged violations of rules about the participation of a group or individual in the Pride parade and march.

Pride Toronto welcomes input and recognizes that complaints are a valuable source of information. Pride Toronto is committed to providing an accessible complaints process that balances the rights of individuals and the community at large while ensuring that the festival is operated within the mandate as approved by the Board and its membership. Pride Toronto documents, evaluates, and analyzes complaints to help improve the way the organization operates.

Pride Toronto will accept a complaint from anyone from the public, including queer identified and non-queer identified individuals and / or groups; the general public, advocates, volunteers, neighbours, and other members of the community.

How Do I File a Complaint through the Dispute Resolution Process?

The complainant(s) must complete the Request for Dispute Resolution Process form (as attached) to initiate a complaint.

Complaints should be factual and clearly outline the alleged violations. Complaints that are malicious, perpetuate slander, or personally attack individuals, parade participants, marchers or Pride Toronto will not be considered.

When filling out the Request for Dispute Resolution form, the complainant(s) should:

- (a) specify the parade or march rule or governing Policy that has been violated;
- (b) identify the specific nature of the violation;
- (c) identify the person(s) or group(s) responsible for the violation;
- (d) identify the nature of the corrective action you are requesting or the penalty you are seeking to have imposed; and
- (e) identify whether you would like the complaint resolved through mediation or arbitration.

The completed electronic or hard copy of the DRP request form must be sent directly to the attention of the Chair of the Dispute Resolution Process (DRP) at:

Chair, Pride Toronto Dispute Resolution Process
200 Front Street West, Suite 2300
Toronto, Ontario
Canada M5V 3K2

F 416 362 6204

disputeresolution@pridetoronto.com

What are the Timelines to Submit a Complaint?

Subject to the special rules related to the 2010 parade/march, complaints should be submitted under the following timeframes:

- Complaints about a Pride Toronto approved participant must be filed within 30 days of the date the list of approved participants is released by Pride Toronto.
- Complaints about the behaviour of a parade or march participant must be filed within 30 days of the alleged violation.

The list of participants from the 2010 parade and march will be posted on Pride Toronto's website by April 12, 2011. Complaints about participation in the 2010 Pride parade and march must be filed within 30 days of the date the list of 2010 participants is released.

What Are the Complaint Resolution Request Options?

There are three (3) avenues or methods available to make a complaint and seek resolution including:

1. A request for **Corrective Action** (when not seeking a penalty and within Pride Toronto's authority) – this process is outside of the Dispute Resolution process.
2. A request for **Mediation** – between the complainant(s) and other parade participant(s) in an effort to resolve the complaint. The goal of mediation is to come to a workable solution that leaves both sides in agreement with the resolution.
3. A request for **Arbitration** - which seeks an independent review of the approval or exclusion of participants in the parade or march, or an alleged violation of the rules and policies governing participation in the parade or march.

A complainant may request to start at step one and proceed through the steps, or go directly to Arbitration.

What Happens When a Complaint is Submitted?

The Chair of the DPR will review the DRP request form to ensure that all required information is completed and may contact the complainant for missing information if required. The Chair will then assign a Dispute Resolution Officer (DRO) to the file.

The Chair is not responsible to evaluate the merits of the complaint. The Chair is responsible to ensure that the information on the request form is complete and to assign a Dispute Resolution Officer.

If in the opinion of the Chair the complainant has been unable or unwilling to provide the required details regarding the complaint in a reasonable time, then the Chair may dismiss the complaint without assigning a DRO.

The Chair in exceptional circumstances may determine based on the complexity of the complaint that a panel of Dispute Resolution Officers (instead of an individual officer) should be appointed to hear the complaint.

In this case whether the complaint has requested an individual DRO or a panel, the Chair will assign a lead DRO who will act as the Panel President who will work with the parties to assign the remaining arbitrators. This is the only time a decision by a panel can be appealed (see the Appeals section below).

What Happens after a Dispute Resolution Officer (DRO) has been Assigned?

The Dispute Resolution Officer (DRO) is responsible to review the complaint and initiate the mediation or arbitration process with the complainant(s) and respondent(s).

The DRO may dismiss a complaint, without a hearing or an investigation, if they determine that the complaint is outside of the jurisdiction of the DRP or is frivolous, vexatious or malicious.

Who are the Dispute Resolution Officers (DRO)?

The Board of Pride Toronto has appointed a roster of independent, professional, impartial Dispute Resolution Officers who are members in good standing with the Law Society of Upper Canada or have relevant professional experience and training in human rights issues, mediation or adjudication.

The officers act on a voluntary basis and are governed by the *Arbitrations Act*, 1991, its relevant regulations, alternative dispute resolution codes of ethics/conduct and best practices.

The officers are objective and impartial and do not advocate, act on behalf of or represent any party in dispute (complainant, respondent, management). All complaints to the DRP will be dealt with in an unbiased manner.

Who is the Respondent(s)?

A person or group affected by a complaint is referred to in the Dispute Resolution Process as the Respondent.

The Respondent will be immediately notified of the Complaint and the request for Mediation or Arbitration. The Respondent is expected to notify the Chair of the Dispute Resolution Process within 7 days whether they will participate in the requested mediation or arbitration.

If they do not agree to participate then the Chair will assign a DRO and the DRO will then determine how to proceed on the complaint. It is important to note, all groups who apply to participate in the parade must agree to abide by the DRP as a condition of participation. Respondents are strongly encouraged to support and participate in the process.

What is the Process for Requesting Corrective Action?

Requests for corrective action will be referred to the Executive Director for review, resolution, and formal response to the complainant.

If the request for corrective action involves the Executive Director then the complaint will be referred to the Board of Directors for review, resolution and formal response to the complainant.

Pride Toronto will respond to requests for corrective action within 14 business days. Pride Toronto may refer requests for corrective action to the DRP if Pride Toronto deems it appropriate to do so. It is expected in these cases that Pride Toronto will forward those requests as quickly as possible to ensure there is adequate time for the DRP to review the complaint.

Parties directly affected by the decision of Pride Toronto to take corrective action in response to a complaint shall be entitled to file an additional complaint within 60 days of the corrective action coming to their attention.

Note: Complaints that request a penalty, request corrective action outside the control of Pride Toronto, seek mediation or arbitration, or which is in response to Pride Toronto taking corrective action in response to another complaint shall be referred to the DRP.

What is the Mediation Process?

For the purposes of this process mediation is defined as follows: the act or process of MEDIATING -- intervening between conflicting parties to promote reconciliation, settlement, or compromise. Parties in dispute choose a mediator, an impartial person, who helps them reach their mutually-acceptable settlement/agreement.

The Dispute Resolution Officer has authority to determine his or her own process on any mediation. In order for mediation to be effective, both parties must agree to participate in the process. The DRO will confirm that both parties agree to participate in the mediation process and will outline the mediation process.

The DRO will act as a mediator in this process. The goal of this process is to help both the complainant and the respondent to reach a mutually satisfactory resolution / agreement about the complaint.

Mediation must be completed within 30 days, unless extended by consent of both parties. If mediation is held and is unsuccessful, the complainant shall have the option of referring the original complaint to Arbitration.

What is the Arbitration Process?

For the purposes of this process Arbitration is defined as: A process whereby parties in dispute refer their disagreement to a mutually acceptable, independent third party, an arbitrator, agreeing in advance to be bound by the arbitrator's decision.

Where a complainant has chosen arbitration, or in the case that Pride Toronto requests an arbitrator be assigned, the Chair of the Dispute Resolution Process will review the request for its completeness and assign a DRO to arbitrate the complaint within 14 days of the Chair receiving the request for the complaint.

The DRO shall be selected at random by proceeding through the roster alphabetically by surname, and ascertaining the first available officer that does not have a conflict of interest and is available to hear the complaint (note: on the next occasion a DRO is required, the Chair will begin with the name following the name of the last DRO appointed).

Single Dispute Resolution Officer Arbitration

As in the mediation process, the assigned Dispute Resolution Officer will determine the arbitration process.

It is expected that the Complainant and Respondent will be invited to participate. Arbitration shall be completed within 21 days from the date the DRO is appointed unless the Complainant and Respondent agree otherwise.

A decision regarding the arbitrated complaint including reasons shall be issued in writing within 14 days from the date the DRP has been completed.

Under certain conditions decisions reached in single arbitration sessions are appealable (please see below for further information).

Panel Arbitration

The complainant may initially request a panel arbitration. In the case where a complainant initially requests a panel, the decision is not appealable.

In exceptional circumstances the Chair of the DRP may also assign a panel arbitration based on the nature of the complaint. This is the only time a panel decision may be appealed (see the Appeals section below for more detail).

The panel will consist of three (3) Dispute Resolution Officers. In all situations involving a panel, the final decision(s) will be made by the majority.

Again, the Chair will select a lead DRO at random by proceeding through the roster alphabetically by surname, and determining the first available officer that does not have a conflict of interest and is available to hear the complaint.

As in the mediation process, the assigned DRO will determine the arbitration process and they shall act as the Panel president.

Complainants and respondents who are involved in a Panel Arbitration will be invited to nominate up to three (3) available DROs to the Panel (only one of whom will be chosen). These nominations must be received within 7 days of being notified by the Panel president that the complaint has been referred to a Panel process.

In the event that either the complainant or respondent fail to nominate their choice for DROs within this timeframe, the Chair of the Dispute Resolution Process will assign DROs to the remaining vacant panel position(s) in order to constitute the panel.

Arbitration shall be completed within 21 days from the date the DRO is appointed unless the complainant and respondent agree otherwise. In cases of panel arbitration, the majority ruling governs in all situations.

A decision regarding the complaint including reasons shall be issued in writing within 14 days from the date the DRP has been completed.

Decisions reached by an Arbitration panel are not appealable (except as noted above).

How Long Will the Whole Process Take?

All reasonable steps will be taken to review and respond to the complaints in a timely manner. The specific timelines are established below based on which process is chosen. If additional information is required to undertake a review the timelines may be adjusted accordingly.

General Timelines

Type of Request for Resolution / Complaint	Initial Notification	Appoint Dispute Resolution Officer	Meeting / Hearings	Decision Reached*
Mediation	7 Days	14 days	Flexible defined by DRO and agreement with Complainant and Respondent	30 Days
Arbitration	7 Days	14 days	Flexible defined by DRO and agreement with Complainant and Respondent	21 Days
Appeal	7 Days	14 days	Flexible defined by DRO and agreement with Complainant and Respondent	21 Days

*** In exceptional circumstances, based on mutual agreement from the parties, or by order of the Dispute Resolution Officer or Panel, timelines may be adjusted or extended.**

All decisions and appeal decisions will be posted on the Pride Toronto website within 30 days of completion, including a documented response from the Board of Pride Toronto.

Appeal Provisions

Decisions by the Chair, or DRO to dismiss a complaint as frivolous or vexatious, or due to lack of jurisdiction, are not subject to appeal.

Where an initial decision on a complaint is made by a single DRO, or the decision was reached when the Chair of the DRP assigned a Panel, either party to the original complaint may appeal the ruling to the Chair of the Dispute Resolution process.

The notice of appeal must be submitted in writing to the Chair of the Dispute Resolution process within 7 days of the final decision from the Arbitration. The appeal must be submitted to the address outlined above for the Chair.

The appeal must clearly outline why the complainant believes that the Arbitrator erred in his/her decision including identifying clearly where the Arbitrator failed to properly interpret policy, legislation or mission.

The Chair will review the appeal request to determine:

- if proper review and process was followed;
- if procedural fairness was denied; or
- if the arbitrator failed to admit, or ignored evidence or such, that was necessary to fairly and properly consider the matter.

If the Chair finds there are proper grounds for appeal, an appeal panel will be assigned. The DRO(s) arbitrating the original complaint shall be ineligible to participate in the appeal panel.

On filing the appeal notice, the complainant shall name a DRO as his or her nominee to the appeal panel from the roster of DROs. In the event that the Chair has determined an appeal panel is warranted then the Chair will notify the respondent who has 7 days to submit the name of his or her nominee to the appeal panel from the roster of DROs.

The two nominated DROs will then choose a third person from the roster of DRO, who shall serve as the president of the appeal panel. If the two nominees are unable to agree within 7 days, the Chair of the Dispute Resolution process shall appoint the third member of the panel.

The appeal panel shall be free to determine its own process. However, a decision on the appeal with reasons must be issued within 21 days from the completion of the

panel. In exceptional circumstances, subject to mutual agreement with the parties, timelines may be adjusted or extended.

In all situations involving a panel, the final decision(s) will be made by the majority.

The Chair or his/her designate will notify both the complainant and respondent that the process has been completed.

In the Event of An Appeal, What Ruling Remains in Effect?

For decisions reached in arbitration, the Dispute Resolution Officer must stipulate which ruling remains in effect in the event of an appeal. This will include a decision as to whether or not the existing ruling from the Dispute Resolution Officer stands or that the current practice is acceptable pending appeal.

What Penalties Can the Dispute Resolution Process Impose?

The Dispute Resolution Officers, including the appeal panel, where they find that the rules have been violated or that an applicant is otherwise not in compliance with the rules, shall be entitled to impose any or all of the following penalties:

- a) a warning or direction;
- b) a financial penalty in the form of a requirement of payment of an additional fee as a condition of future participation;
- c) an order disqualifying a group from participating Toronto's activities for a period from 1 to 2 years; and
- d) or other such remedy as seems appropriate and just within its jurisdictional powers.

All decisions of the Dispute Resolutions officer, Panel, or in event of an appeal the Appeals Panel, will be final and binding on Pride Toronto, the Complainant and the Respondent.