

Complaints & Discipline Policy

The Family Dispute Resolution Institute of Ontario (“FDRIO”) is committed to the highest possible practice standards in family dispute resolution so that the public can have confidence in FDRIO’S members and their services. This Complaints Policy ("Policy") is an important tool to promote and ensure quality control. It is intended to provide a process for the investigation and resolution of complaints about Certified Family Dispute Resolution Professionals ("FDRP") that is transparent and efficient. Certified FDRPs are deemed to submit to this policy by virtue of their current membership.

WHEREAS FDRIO has established a process to deal with complaints, the following process will apply when FDRIO receives a complaint about one of its members.

1. Purpose

1.1 This Policy is intended to affirm and uphold the FDRIO Standards of Practice and applicable policies and to ensure that all complaints and inquiries concerning members holding an FDRP designation be dealt with according to a consistent standard and process.

2. The Committee

2.1 The FDRIO Board of Directors ("Board") shall establish a Professional Conduct Committee (“Committee”) and shall appoint members to the Committee who have submitted their CVs to the Board outlining their professional background, training, experience and professional organization affiliations. Appointments shall be made for one year terms. The Committee shall have jurisdiction to make recommendations to the Board, including all matters relating to the administration and implementation of this Policy and shall meet regularly.

2.2 The Committee will be composed of five current members of FDRIO, three of whom, including the Committee Chair, shall be members of the Board. The composition of the Committee may be altered from time-to-time at the discretion of the Board.

3. Jurisdiction

3.1 This Policy applies to FDRIO members who hold one or more FDRP designations (“Professionals”).

3.2 Complaints made under this policy must allege a breach by a Professional of the FDRIO Standards of Practice or an applicable FDRIO Policy or Standard of Practice in effect at the relevant time;

4. Making a Complaint

4.1 Complaints shall be made by electronic mail at complaints@fdrio.ca and provided to the Committee Chair and the two members of the Committee who will review the complaint. They will review the complaint to ensure that:

- (a) it concerns a current FDRIO member who holds one or more FDRP designations in good standing;
- (b) it involves that member's act or omission in the course of their rendering of services as a family dispute resolution professional as that term is recognized in Canada;
- (c) it contains sufficient details and particulars to enable a response;
- (d) it is made by:
 - (i) a direct participant in a family dispute resolution process conducted by that member or by a person authorized in writing on the complainant's behalf; or
 - (ii) it is made by anyone who appears to have direct knowledge of that member's non-compliance with the FDRIO Standards of Practice, or applicable FDRIO Standard of Practice or Policy; or
 - (iii) by motion of the Board who may themselves initiate and investigate a complaint.

4.2. Within 30 days, the Committee Chair will acknowledge receipt and ensure that the complainant has been informed that FDRIO's complaints process:

- (a) is in the nature of a quality control initiative as opposed to a discipline process;
- (b) involves an investigation by two members who are independent of the complainant, respondent, and issues in the complaint. The two members will make a report with the Committee Chair with recommendations to the Board;
- (c) is not a substitute for an appeal, judicial review or other court process;
- (d) cannot change the outcome of the process nor result in an order for a new family dispute resolution process; and

- (e) cannot award damages or compensation to the person making the complaint.

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4.3 The Committee Chair will designate the two Committee members who will act as the reviewers for the matter, one of whom must be a FDRIO director, and shall, with the two reviewers, determine if the person concerning whom the complaint is made is subject to the jurisdiction of this Policy. If not, the complaint shall be dismissed and the Committee Chair will notify the complainant by electronic mail.

4.4 If, following their review of the Complaint file, the Committee Chair determines in their discretion that

- (a) The Complaint arises solely out of an innocent communication error; or
 - (b) The Complaint is frivolous, vexatious or actuated by malice; or
 - (c) It is plain and obvious that the complaint Cannot be upheld;
- then the Committee Chair shall recommend, giving written reasons not to exceed 500 words, that the Complaint be summarily dismissed.

4.5 If, following their review of the Complaint file, the Committee Chair determines in their discretion that the Complaint does not fall within any of the categories in paragraph 5.3(e), then the Committee Chair shall recommend, without giving reasons, the appointment of reviewers.

4.6 If the Committee Chair's Recommendation is that reviewers be appointed, then they will be appointed within 30 days of receipt of the Review Recommendation.

4.7 If the person concerning whom the complaint is made is subject to the jurisdiction of this Policy, the Committee Chair shall notify the FDRIO Chair and, within 30 days of the date of the complaint, provide the Complainant with the FDRIO "Undertaking, Waiver of Confidentiality and Exclusion of Liability" (Appendix 1).

5. Review

5.1 When an executed Undertaking is received, the Committee Chair will, within 15 days, provide the Professional with a copy of the complaint, any supporting materials and a copy of this policy together with a request for a response within 30 days.

5.2 After receipt of a response from the Professional, the Committee Chair will send a copy of the response to the complainant, requesting a reply, if any, within 15 days.

5.3 Within 60 days of the receipt of any reply from the complainant, the designated reviewers will, as expeditiously as possible:

- (a) review the complaint, the Professional's response and the reply, if any, from the complainant;
- (b) receive and review any additional materials received;
- (c) seek additional information, if needed, from the complainant, the Professional, FDRIO, or any other source that the reviewing members deem appropriate;
- (d) assess the complaint; and, along with the Committee Chair; and
- (e) prepare a written report
 - (i) indicating whether the complaint is substantiated
 - (ii) providing a basis for their conclusions
 - (iii) providing recommendations if appropriate, if the complaint is substantiated. Such recommendations may include a wide range of options, not limited to remediation, a simple warning, training, review, mentoring, observation or temporary or permanent removal from FDRIO's membership list.

5.4 The Committee Chair will provide a copy of the report to the complainant and to the Professional, explicitly on a confidential basis. The Committee Chair will also redact all identifying information as to the complainant and the Professional from the report and provide it, along with any necessary background materials, to the Chair of FDRIO for consideration by the Board, without disclosing any names or identifying information.

5.5 The Chair of FDRIO will not participate in the decision-making relating to the complaint, nor will any members of the Board who acted as reviewers. The remaining members of the FDRIO Board of Directors will:

- (i) receive the report of the Committee;
- (ii) accept the recommendations of the Committee in whole or in part, reject them, or substitute an alternative outcome that is less serious than that recommended by the Committee. If the Board wishes to adopt a more serious outcome than that recommended by the Committee, the Professional will be notified by the Committee Chair and given an opportunity to make additional written submissions to the Board before the decision is finalized;
- (iii) Provide a written decision to the Professional with reasons; and

- (iv) Notify the complainant of the outcome of the Complaint together with a brief statement of its rationale.

5.6 In determining the appropriate outcome of a substantiated complaint, the Committee and the Board of Directors may consider any previously substantiated complaint about the Professional.

6. Appeals

6.1 There is no appeal from the decision of the Board of Directors except in cases where the outcome of the complaint is suspension, expulsion or permanent removal from the membership of FDRIO, or revocation of a Professional's FDRP designation. In such cases there is an appeal to the Chair of FDRIO.

6.2 Upon receipt of a Notice of Appeal, within 30 days, the Committee Chair shall provide the Chair, FDRIO with the Notice of Appeal, together with the reviewers' Report and recommended disposition and the Committee's disposition.

6.3 The Chair, FDRIO shall consider the appeal on the written record only.

6.4 The Chair, FDRIO will uphold the Committee's disposition unless the record discloses extraordinary circumstances or considerations, or new information is brought to the Chair, FDRIO's attention, which in the opinion of the Chair, FDRIO, mitigate an otherwise appropriate disposition.

6.5 If, in the opinion of the Chair, FDRIO, the record discloses extraordinary circumstances or considerations which mitigate an otherwise appropriate disposition, the Chair, FDRIO may allow the appeal and substitute any disposition which would have been available to the Board, save and except that the Chair, FDRIO may not substitute a disposition dismissing the complaint.

6.6 Within 60 days of receipt of the Notice of Appeal and related documentation from the Committee Chair, the Chair, FDRIO shall provide a final and binding decision on the appeal, with written reasons.

7. Conflicts of Interest

7.1 No person shall act in any capacity in the complaint process if that person has or may have any conflict of interest or reasonable apprehension of conflict of interest with either the Complainant or the Professional.

7.2 When the identity of the Complainant and/or the Professional has not been disclosed and is not known to the person acting in the complaint process, section 7.1 does not apply. If a conflict of interest is later discovered, there will be no impact on the complaint process.

8. Relief from Strict Time Limitations

8.1 The Chair, FDRIO or the Committee Chair as delegate, may at any time relieve, in their sole discretion, either the Complainant or Professional from any of the time limits contained in this Policy.

Appendix 1

Undertaking, Waiver of Confidentiality and Exclusion of Liability

I, **THE UNDERSIGNED**, have made a complaint against _____.

1. I have asked FDRIO to investigate my complaint and if my complaint is found to have merit, to take appropriate steps to encourage and support the member in adhering to appropriate professional ethics, practices and procedures and to work to avoid such problems in the future.

2. In return for FDRIO undertaking to engage in this process, I unconditionally undertake that I will not use information obtained during the course of this complaint for any purpose outside of the complaint process including any applications for judicial review or civil actions against the member or FDRIO. I will not under any circumstances summons any person appointed by FDRIO, or consulted by FDRIO during the course of this process, in any proceeding I may take against the member or FDRIO.

3. I unconditionally waive any rights that I may have to make a claim against FDRIO, its directors or agents, relating to the conduct of the member involved, or anyone appointed or consulted by FDRIO on the matter relating to FDRIO's investigation of the complaint; relating to FDRIO's recommendations; or relating to anything that FDRIO does or does not do arising out of the investigation of my complaint.

4. I understand that FDRIO is a voluntary membership organization and that it has no power to discipline a member apart from revoking the person's membership in FDRIO.

5. I acknowledge and confirm that family dispute resolution processes of mediation, arbitration and parenting coordination are confidential in nature. I hereby waive any such confidentiality relating to me, for purposes of investigating my complaint and I hereby expressly permit the person against whom I am bringing this complaint about to provide FDRIO with my complete file, including any and all notes, information, etc. I understand that FDRIO will protect and preserve any such information.

6. I acknowledge having received a copy of the FDRIO Complaint Process and that I have read it and understand it and agree to abide by its terms.

Dated at: _____, on _____ 20____.

Witness

Complainant