

Considerations for Recourse Strategies

Here are things to keep in mind as you examine which process to use to resolve a situation of workplace racism.

Timeliness

For most formal recourses, there are set timelines for initiating a process. A complaint/grievance process can be rejected if the timeline is not respected.

The length of time it can take to obtain remedy

Most processes take time. Both complaints and grievances usually involve lengthy processes unless an informal resolution is reached.

The capacity of the person experiencing racism to engage in a recourse process

The victim of racism might decide they simply want the racism to stop (a cease and desist measure) and not want to take on dealing with systemic racism in the workplace. They may prefer a non-adversarial approach.

Level of support in the workplace

Try to gauge the support (or lack of support) before you choose the recourse. Effective mobilization requires a strong and active union presence in the workplace.

Employer's usual response or strategy

Will they fight you every step of the way? Will they try to find a quick fix?

Member's expectations

A system of rights might not feel like a system of justice. Racist bosses don't get sent to jail and are rarely fired.

Union's track record with the recourse method

Are we more effective in getting a cease and desist order pursuant to the violence provisions of the *Canada Labour Code*?



The corrective measures being sought

Are you looking for a retroactive settlement for someone who has been on sick leave for six months? If yes, which recourse can reward this?

Union-management relations in the workplace

Does the union hold its own in this process? Is it possible to address systemic issues there?

Union visibility and organization in the workplace

Is there capacity and interest by co-workers to carry out actions in support of the member experiencing racism?

Room for settlement

Will a settlement fix the issue? Is the employer willing to settle?

Other considerations

Is there a solid case? Is the person experiencing racism prepared for a long process? Is the union committed to seeing the case through? Will this case assist in resolving an on-going workplace issue?

Need for confidentiality

Is the member asking for a confidential solution. Decisions of arbitrators and Human Rights Commission will likely be published and available on-line. This may also inform the way you gather evidence.

