



Code of Ethics Complaint Process

June 2022

About the Code of Ethics

The Alberta Professional Outfitters Society (APOS) was established in 1997 as the delegated administrative organization for the outfitting industry in Alberta. As part of our Memorandum of Understanding (MOU) with the Government of Alberta, APOS provides a disciplinary process in relation to a Code of Ethics. The Code of Ethics has a section for outfitters and a section for guides. A complaint can only be submitted against an outfitter. The Code of Ethics for a holder of a Guide Designation can be used within the complaint against the outfitter.

In the operation of an outfitting business, a Voting or Non-Voting Member of APOS shall:

1. Provide clients with contract or documentation outlining agreed upon terms and conditions for each hunt.
2. Not contract or conduct outfitting services unless they are the holder or permitted user of the allocation or waterfowl privilege to be used.
3. Not knowingly mislead or misinform clients when marketing the details of a hunt.
4. Be willing to make restitution when at fault for breach of contract.
5. Be familiar with and adhere to the applicable legislation and regulations relating to hunting, guiding, and outfitting in Alberta.
6. Maintain respectful relations with landowners.
7. Cooperate with and respect the reputation and business of fellow APOS members.
8. Ensure safety is a priority at all times during the delivery of contracted services.
9. Employ competent and knowledgeable guides, maintain oversight to ensure their continued proficiency and delivery of quality services.
10. Maintain the highest practical standards in food preparation and accommodations.
11. Respect the rights of resident hunters.
12. Respect and maintain the reputation and standards of APOS.

In the delivery of guiding services, the holder of a Guide Designation shall:

1. Ensure safety is a priority at all times during the delivery of contracted services.
2. Be familiar with and adhere to the applicable legislation and regulations relating to hunting and guiding in Alberta.
3. Maintain the highest practical standards in food preparation and accommodations.
4. Maintain respectful relations with landowners, resident hunters, and fellow APOS members.

COMPLAINTS

There are three categories of complaints:

- 1) Client/Outfitter
- 2) Employee/Outfitter
- 3) Outfitter/Outfitter

Our process is based on the principles of natural justice. It is important to note that the process does not follow judicial process, so you do not require a lawyer. There are four principles to natural justice:

- 1) The right to know the case against them and give opportunity to reply.
- 2) The decision maker who heard the case must make the decision.
- 3) The right to an unbiased decision maker.
- 4) The right to receive reasons for a decision.

If at any time in the process of a complaint, information is provided regarding potential *Wildlife Act* and/or *Wildlife Regulation* infractions, APOS has an obligation to report to Fish and Wildlife Enforcement.

ETHICS AND STANDARDS REVIEW COMMITTEE

Complaints received by APOS are reviewed by the Ethics and Standards Review Committee (ESRC). The Committee's Terms of Reference and composition are approved by the Board of Directors. The Board of Directors is responsible for appointing the Chair, who participates in each review but does not have the authority to vote on decisions. Committee members are appointed by the Chair. The Chair is the primary contact between the Committee and the office staff.

The Chair of the Committee is appointed by the Board of Directors. The Committee may include a maximum of 5 people, with always at least one active outfitter more as the public members at large, who are not directly involved in the outfitting industry, but are knowledgeable about hunting and the outfitting industry. Quorum for each meeting is 3 people, with at least 2 outfitters and 1 public at large member in addition to the Chair. It is preferred to have an uneven number of voting members in a committee meeting. Decisions of the Committee are made by majority vote.

All Committee members must disclose any conflicts of interest prior to participating in a review or hearing. The Committee has no investigative capacity, so all decisions are based upon the information provided by the parties.

PROCESS

1. Filing a Complaint

Complaint forms are available on www.apos.ab.ca. Mailed or emailed copies are available upon request. Since the Committee does not have any investigative capacity, the onus is on the parties to provide evidence to support any claims concerning a breach in the Code of Ethics.

Evidence may include:

- a. Correspondence between the parties;
- b. The contract between the parties;
- c. Witness testimony;
- d. Advertisements and promotional materials; and/or
- e. Photos/videos.

After a complaint is received by APOS, the Complaints Coordinator will acknowledge receipt by email within 3 business days. The Complaints Coordinator will determine if the complaint is eligible. In order to be eligible, the APOS complaint form must be used, the complaint must show a clear connection to the APOS Code of Ethics, and the Defendant must have been an active outfitter when the circumstances giving the rise to the complaint occurred. If outfitter is not currently active, APOS will keep eligible complaints on file (at no cost to the complainant) in the event that the outfitter desires to resume membership in the future.

If a complaint is determined to be eligible, the Complaints Coordinator will process the \$200 CDN fee. Both parties will be notified of this decision by registered letter within 15 days of receipt of the complaint at APOS. Copies of the complaint, with credit card information redacted, will be provided to the other party to the complaint for their response.

When a complaint is determined to be ineligible for the APOS process, the Complainant will be notified of this decision by registered letter within 15 days of receipt of the complaint at APOS.

2. Response from the Other Party's to the Complaint

The other party to the complaint has 30 days from emailed notification to prepare a response. The response should directly address each allegation provided in the original Complaint Form. Supplemental arguments may be included as an appendix.

Since the Committee does not have an investigative capacity, the onus is on the parties to provide evidence to support their claims. Evidence may include:

- a. Correspondence between the parties;
- b. The contract between the parties;
- c. Witness testimony;
- d. Advertisements and promotional materials; and/or
- e. Photos/videos.

The Complaint Coordinator will provide a copy of the response to the Complainant within 3 business days of receipt by registered letter and email.

3. Optional Third-Party Mediation

On the Complaint Form, complainants have the option of selecting neutral third-party mediation prior to a review or hearing. Mediation is strongly encouraged, as some of the issues that may be upsetting to the parties may fall outside of the Code of Ethics but can be discussed in mediation. Even a complaint that is not eligible for the APOS Code of Ethics process may be eligible for APOS-subsidized mediation with payment of the application fee.

Upon receipt of the Defendant's response, the Complaints Coordinator may coordinate mediation if there is mutual interest from both parties. The mediator will be selected by APOS. APOS cannot force a party to mediation. If mediation is declined by one party, the file will proceed through the review process.

If the mediation is successful, both parties will be asked to provide a signed mediation agreement to confirm that the APOS complaint file may be closed. The mediation agreement will state the outcome of the mediation. Upon receipt of this document, the Complaints Coordinator will draft a letter to the parties stating that the file has been closed.

If the mediation is unsuccessful, the parties will proceed through the remainder of the Code of Ethics process, if the complaint was deemed eligible.

4. Response from the Complainant

The Complainant can respond to the Defendant's response within 30 days of the emailed notification of the Defendant's response to the Complainant. The Defendant will be notified by email within 3 business days of receipt of the Complainant's response.

5. Review by the Committee

Committee review meetings are held as needed except in March and during the fall hunting season (September-November).

At the beginning of a review, all Committee members will disclose on record if they have any conflicts of interest and will recuse themselves if necessary. This process will be reflected in the meeting minutes. Minutes will be taken by an independent contractor and will be available, upon request, to the parties, with private information redacted.

The Complaints Coordinator will present the file to the Committee, outlining the alleged breaches of the Code of Ethics and the evidence. The Complaints Coordinator may provide recommendations to the Committee but does not vote on decisions.

After the review is completed, the Committee can render a decision on the file if they feel they have enough information to do so. Alternatively, the Committee may determine that a hearing is necessary.

6. Hearings by the Committee

If the Committee determines that additional information is required following a review, they may request that the Complaints Coordinator schedule a hearing. Hearings may be held as needed, except in March and during the fall hunting season (September-November). The Complaints Coordinator will notify both parties of the hearing at least 30 days before the hearing date by registered letter and email. A hearing can be in person, by conference call or Zoom.

Typically, the parties to a complaint would be only the Complainant and the Defendant. However, each party is allowed to have a representative present during a hearing. APOS must be informed by the party at least one week prior to the hearing date if a representative and/or shareholder is attending the hearing. Registered directors and officers of the APOS member are also allowed to be present at the hearing. Witnesses are only allowed to be present at the hearing during questioning regarding their statement.

The Committee Chair will utilize the Order of Proceedings to lead the meeting. At the beginning of a hearing, all Committee members will introduce themselves and disclose on the record if they have any conflicts of interest. Member will recuse themselves if necessary. This process will be reflected in the meeting minutes. Minutes will be taken by an independent contractor and will be available, upon request, to the parties, with private information redacted.

The Complaints Coordinator will be present at the hearing but has no part in the questioning. The Complaints Coordinator may provide a recommendation to the Committee when asked but does not vote on decisions. No Committee deliberations can take place while parties to the complaint are present.

7. Decisions from the Committee

The Ethics and Standards Review Committee has the power to:

- a) Direct the outfitter to provide a refund,
- b) Direct the outfitter to pay a restitution and/or
- c) Suspend an outfitter for a certain amount of time until the funds are provided.
- d) Reprimand an outfitter, which could lead to a short-term suspension (max 1 month) if outfitter continues to violate the code of ethics.

The decision letter will be drafted by the independent contractor, who will be present at the hearings. Drafts of the decision letters will be reviewed by the Complaints Coordinator, the Managing Director, and Committee Chair prior to being sent to the Committee for comment. All parties will be notified by the Complaints Coordinator of the decision by registered letter and email within 15 days of the decision.

Note: Extension of Deadlines

Process deadlines can be extended on initiative of the Complaints Coordinator or Committee or upon written request by one of the parties. Extension may be given for 30 days and is communicated by letter and email to both parties.

APPEAL

Both parties to the complaint have an opportunity to file an appeal if they are unsatisfied with a decision of the Committee. The person desiring an appeal must complete the Appeal Form and pay the non-refundable \$100 CDN appeal fee within 30 days of notification of the decision. Once a decision in an individual case has been appealed and a decision has been rendered, it cannot be appealed again through APOS.

Appeals can only be filed based on:

- **New Evidence:** This relates to evidence that was not yet available before the review or hearing.
- **Error in Process:** Appeal is only possible on these grounds when an error could have influenced the decision-making process.

Appeals Committee

The Ethics and Standards Decision Appeal Committee is comprised of 2 members and the Chair. The members will be one outfitter and one public member at large from the ESRC member list, that have not been involved in the decision making process of the complaint. The Chair of the Committee shall be a Board member and is entitled to vote on decisions. All members must attend an Appeal Committee meeting.

Authority of the Appeals Committee

When a decision is appealed, the decision of the ESRC is on hold until the Appeals Committee renders their decision. The Appeals Committee has the power to:

- Determine if new evidence is provided or an error in process has been made.
- Dismiss an appeal, or
- Return the complaint to the ESRC for another review or hearing.

When a file is given back to the ESRC, the file will be reviewed by a Committee with a different composition than who reviewed the original complaint.

Process

1. Filing an appeal

When all requirements for filing an appeal have been submitted and received by APOS, including the fee and the Appeal Form, the Committee Chair will be notified by the Complaints Coordinator.

2. Eligibility

The Appeals Committee Chair will review the Appeal Form and accompanying information to determine if the appeal is eligible. When deemed appropriate, the Chair may contact the complainant to further clarify and understand the reasons for the appeal. The Chair may ask to see some of, or the entire, original case file and decision, or request additional written submissions.

- *Ineligible*: If the appeal is deemed to be not eligible, the Complaints Coordinator will notify the complainant, in writing, of the decision within 30 days of having received the Appeal Form.
- *Eligible*: If the appeal is deemed to be eligible, the Complaints Coordinator will advise the complainant and other affected parties associated with the complaint, in writing, within 30 days of having received the Appeal Form, that the Appeals Committee will be reviewing the case.

3. Review and Notification

Once a case has been determined to be eligible for appeal, the Complaints Coordinator will notify the Committee and call a meeting within 30 days, utilizing different Committee members than who participated in the original review or hearing.

The decision of the Appeals Committee shall be either:

- To grant the appeal and return the matter to the ESRC for a new review or hearing; or
- To dismiss the appeal.

Decisions will be based on a consensus. If consensus cannot be reached, a vote will be conducted with the decision based on simple majority. The decision of the Appeals Committee shall be final and binding. A copy of their written decision will be forwarded to the ESRC Chair. The parties will be notified within 60 days of APOS having received the Appeal Form.

PAYMENTS

The ESRC may decide that a refund and/or restitution must be paid to a Complainant. Payments resulting from a Committee decision must be paid to APOS within 60 days of the parties' notification of the decision.

Upon receipt of the payment, a Full and Final Release Form is sent by email and mail to the Complainant. The Complainant has 60 days from receipt of the Full and Final Release form to return a signed copy. If the deadline of 60 days is not met, the funds will be returned to the Defendant. Only upon receipt of a signed Full and Final Release Form will the funds be transferred to the Complainant's account; this will occur within 15 days of receipt.

All restitution fees issued by the ESRC are due within 60 days of written notice being issued. If the 60-day period is exceeded, APOS will charge interest of prime plus 3%, compounded monthly. An outfitter will not be able to renew or utilize any allocations or privileges until outstanding fees are paid.

ESRC PROCESS FLOWCHART



