

Ontario Human Rights - 101

Algoma District School Board

(With content developed by the Ontario Human Rights Commission)

Human Rights 101

- This module provides a basic understanding of rights and responsibilities under the Ontario Human Rights Code.
 - What you should know about human rights and discrimination
 - Your rights and responsibilities under the Ontario Human Rights Code
 - How to apply the Ontario Human Rights Code

Why Do We Need to Know About Human Rights?

- We all have the responsibility to ensure that everyone is treated equally and without discrimination.
- Human Rights are for everyone. Human Rights issues touch our lives everyday.

About Human Rights

■ 2 Sections

- Foundations of the Code, where did it come from?
- What is Discrimination

Section 1 - Foundations of the Code

- International law says we all have human rights. The beginning of the Code, the Preamble, talks about the Universal Declaration of Human Rights, which was created by the United Nations in 1948.
- The Ontario Human Rights Code looks to the Canadian Charter of Rights and Freedoms, which guarantees the people of Canada important political and civil rights.

Foundations of the Code

- After World War II, Ontario politicians and citizens asked for legislation to protect human rights, and it was one of the first provinces to introduce:
 - The Racial Discrimination Act (1944)
 - The Fair Employment Practices Act (1951)
 - The Fair Accommodation Practices Act (1954)

In 1962 these Acts were converged to form the OHRC

What is Discrimination?

- Discrimination is treating somebody differently because of their race, disability, sex or other personal characteristics. Discrimination has many different forms.
- Discrimination can target:
 - One person
 - A group
 - Imbedded in a system
 - It can also be a reprisal, a poisoned environment, harassment or racial profiling

Direct Discrimination

- Discriminating against an individual or group based on perceived or real differences from oneself.
- Lack of intent still constitutes discrimination.
- Ex. An individual is not hired because they have a disability.

Indirect Discrimination

- Rules or policies that may seem fair but actually cause people to be treated differently.
- Ex. An advertisement for a job as a cleaner requires an applicant to speak and read English fluently. This may disadvantage a person on the basis of their race. The requirement may not be reasonable if speaking and reading English fluently is not necessary to perform the job.

Systemic Discrimination

- Systemic discrimination happens when an organization's rules or culture causes people to be treated differently.
- Ex. A company's owner likes golf and only promotes managers who play golf. Who would be excluded?

Reprisal

- Reprisal means punishing someone because they have a human rights complaint, or because they say they have witnessed discrimination.

Poisoned Environment

- A poisoned environment can happen when comments or actions make you feel unwelcome or uncomfortable where you work or live.
- One comment or action can poison an environment but usually it is consistent negativity.

Harassment

- Harassment is when people make comments or actions that are unwelcome, even though they should know that what they say or do is not welcome.

Racial Profiling

- Racial profiling is making assumptions about an individual because they belong to a specific group.
- Ex. Individuals who are Muslim being searched more frequently at airports.

The OHRC – Key Concepts

■ Primacy

- This means it is more important than most other laws. If there is a conflict between the Code and other provincial laws, you must follow the Code first, unless there is a specific exception.

The OHRC – Key Concepts

- The Code is Remedial
 - It is meant to make bad situations better. The Code is not meant to punish. Instead, it tries to remove discrimination and prevent it by educating the public and creating awareness

The OHRC – Key Concepts

- Effect not Intent
 - Under the Code it doesn't matter if you didn't intend or mean to discriminate. The Code looks at what actually happened, not the intention.

The OHRC – Key Concepts

■ Provincial Jurisdiction

- The Code applies to work, housing and services that are covered by provincial laws. The Canadian Human Rights Act applies to workplaces or services that are covered by federal laws, such as banks, Canada Post, the airlines and the federal government

Section 2 – The Ontario Human Rights Code

- Preamble
- Part 1
- Part 2

OHRC - Preamble

- The Preamble says that everyone in Ontario must be able to live, work and play with dignity, to contribute to society and have equal access to opportunities, without discrimination.
- The United Nations created the Universal Declaration of Human Rights 1948. It talks about human rights values around the world. Some of the wording from this important document appears in the Preamble of Ontario's Code.

OHRC – Part 1

- PART 1 of the Code ensures that Ontarians enjoy freedom from discrimination in 5 areas, called "social areas"

Social Areas - Services

- Stores, restaurants and bars
- Hospitals and health services
- Schools, universities and colleges
- Public places and their facilities, such as community centres, public washrooms, libraries, malls and parks
- Municipal and provincial government services and programs such as social assistance and benefits, and public transit.
- Services provided by insurance companies
- Classified ads in a newspaper

Social Areas – Housing Accommodation

- You have the right to equal treatment when buying, selling, renting or being evicted from an apartment, house, condominium, commercial office or a hotel. This includes being able to enter the building such as the doors, using the swimming pools or the laundry room. A landlord cannot refuse to rent to a tenant who is on public assistance, family benefits or a disability pension.

Social Areas – Contract

- A contract is a legal agreement. It can be in writing or verbal. Everyone has a right to enter a contract on equal terms.

Social Areas - Employment

- "Employment" is interpreted broadly and covers everything from hiring to firing. It can include training, promotions and dismissal, overtime, holidays, sick benefits, discipline and performance evaluations. The Code can apply to employees and after hours work and when employees are not at their workplace.

Social Areas – Vocational Association

- Everyone has a right to join and to be treated equally in a union, professional association or other vocational association.

Part 1 – Grounds for Discrimination

- You cannot discriminate against another person or group of people because of their:
 - Citizenship, race, ethnic origin, place of origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance, record of offense.

Part 2 – Applying and Interpreting the Code

- Harassment
- Duty to Accommodate
- Special Programs
- Special Interest Organizations
- Special Employment

Part 2 - Harassment

- Can be based on any prohibited ground and any of the social areas
- Can be words or actions
- Usually happens more than one time
- Is or should be known to be unwelcome
- Effect not Intent

Part 2 – Duty to Accommodate

- Making special arrangements for some people, so they can have the same opportunities as someone else.
- Ex. A ramp into a building for wheel chair accessibility.

Part 2 – Special Interest Organizations

- Special Interest Organizations are permitted under the Code to limit their services or facilities on specific grounds:
 - Charitable groups
 - Educational organizations
 - Fraternal organizations such as mutual aid societies
 - Social institutions such as a Japanese community centre

Part 2 – Special Employment

- The Code allows special job programs for some organizations. These groups may hire people who share the same culture, religion or background as the people they serve. They include:
 - Religious schools or colleges
 - Community benefit groups such as mutual aid societies
 - Social or cultural clubs that serve a specific ethnic group

How Do You Know If You Have a Complaint Under the Code?

■ Ask yourself

- Did the problem happen in one of the 5 social areas?
- Is one of the grounds involved?
- Is there a link between the social area and the grounds?
- Were you treated differently from other people?
- Is your complaint believable?

Filing a Complaint

- Answering "yes" to each question, even without an answer from the person or company you are complaining against, may be enough to have the Human Rights Tribunal look at the complaint.
- You can make a complaint — called filing an application — directly to the Ontario Human Rights Tribunal. You may want to contact the Human Rights Legal Support Centre for legal advice before making your complaint
- If you file a human rights application, the person or organization you have complained about will be asked to explain what has happened.

Ontario Human Rights System

- 3 Organizations
 - Ontario Human Rights Commission
 - Human Rights Legal Support Centre
 - Human Rights Tribunal

Ontario Human Rights Commission

- The Ontario Human Rights Commission develops policies, provides public education, monitoring and community outreach, and conducts inquiries.

Human Rights Legal Support Centre

- The Human Rights Legal Support Centre can help you file an application and may represent you at the Tribunal.

The Human Rights Tribunal of Ontario

- The Human Rights Tribunal of Ontario is where complaints (also called "applications") are filed. An adjudicator looks at your human rights concerns, considers the evidence and makes a decision.