

The Ontario Human Rights Code - Right or Requirement?

Does the Ontario Human Rights Code apply to me?

Yes. The *Ontario Human Rights Code* (the "Code") provides everybody with equal rights and opportunities without discrimination or harassment in the following specific areas: employment, housing, contracts, services, goods and facilities and unions or occupational/professional associations.

The areas that apply to you as an educator and a school board employee are employment and services, as education falls within the service protections under the *Code*. Put simply, the *Code* applies to you both in your role as a school board employee (your rights) and in your role as an educator (your requirements).

What are the grounds to which the *Code* applies?

- Age
- Ancestry
- Citizenship
- Colour
- Creed (religion)
- Disability
- Ethnic origin
- Family status
- Sex or gender
- Gender identity
- Gender expression
- Marital status
- Place of origin
- Race
- Sexual orientation
- Socio-economic status
- Receipt of social assistance (housing only)
- Record of offenses (employment pardoned)

What are my rights?

You have the right to equal treatment and opportunities, without discrimination or harassment, in the areas covered by the *Code*. However, it is important to note that not all unfair treatment and not all harassment is covered by the *Code*. The treatment or harassment must have been based on a ground in an area covered by the *Code*.

You have the right to be free from human rights violations by your school board employer. More specifically, your school board has human rights obligations towards you and all other school board employees, parents, and students.

Can I file a complaint with the Human Rights Tribunal of Ontario if I feel that my human rights have been violated by my school board?

If you feel that your human rights have been violated, you should seek assistance from your Federation representative or staff in Professional Relations Services (PRS) as soon as possible. The Federation evaluates potential human rights violations raised by members to determine the appropriate course of action, if any, including whether it would be appropriate to file a grievance or to pursue a complaint under a policy of the Board.

If the Federation files a grievance with respect to the violation of your human rights, in most cases, it would not be necessary or useful for you to file a separate complaint with the Human Rights Tribunal of Ontario (HRTTO) as the human rights issue(s) will be addressed in the grievance process.

When both a HRTTO complaint and a grievance are filed with respect to the same alleged human rights violations, the HRTTO will defer to the grievance process. The HRTTO will advise the complainant that the complaint will be held in abeyance pending the completion of the grievance matter and to contact the HRTTO concerning the complaint in the event that the human rights issue is not resolved in the grievance process.

In situations where the Federation determines that a grievance is not appropriate, the member may file a complaint under a Board policy; the Federation would provide advice to the member if the member pursues a complaint under the Board's policy. In the case of a tribunal complaint, the Tribunal may or may not hear such complaints.

Do I have human rights responsibilities in my role?

Yes. ETFO members have human rights responsibilities to all members of the school community, including parents and students, as the *Code* applies to these relationships.

As an educator you have an obligation to provide all members of the school community, including parents and students with equal rights and opportunities without discrimination or harassment. More specifically, with respect to students, members are responsible for ensuring that the learning environment is free of discrimination and harassment.

There are also specific human rights considerations in the special education setting. In the event that a human rights claim is filed based on a student's disability, many things are examined, including the school's/educator's compliance with Individual Education Plans, the school's/educator's conduct with the student and/or parent, and communications from members and school administration to parents. As an educator, you must always be mindful of how your actions or lack thereof might be perceived as discrimination or harassment by other members of the school community, particularly parents.

In addition to human rights complaints based on disability, examples of human rights complaints in the education setting include complaints based on the grounds of race, religion, sexual orientation, and gender identity.

Can I be held liable for human rights violations?

Yes. In addition to school boards' human rights liability to parents and students, members can be held individually liable with respect to their own actions and conduct towards students.

Parents may claim that the school, the school board, and the educator violated her/his human rights and/or the human rights of their child. In most instances this would be in the form of a human rights complaint against a school board which either includes the child's educator as a respondent or names the educator in the complaint.

In most instances where an educator is part of a human rights complaint, the educator's defense would fall under the umbrella of the school board's defense. It is always important that all members comply with any accommodation plan put in place by the school board to ensure that, in the event of a claim where the educator is also named, it will be determined that the members actions and conduct has not strayed from the human rights standard. It is possible, although we have not experienced this in ETFO, in cases where an educator's conduct has strayed far from the standard, the educator may be required to provide his/her own defense to the complaint, separate from that of the school board's.

The best way to avoid such a situation is to be alert to your human rights obligations at all times and to be sure you are communicating with parents, administrators, and other educational partners regarding regularly. Being the respondent or being named in a human rights complaint can be an extremely difficult and stressful situation that can have significant professional consequences, including with your school board and with the College of Teachers.

In the event that a human rights complaint is made against you or you are named in a human rights complaint you should contact your Federation representative or staff in PRS as soon as possible.

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