



ONTARIO NURSES' ASSOCIATION

Human Rights and Equity

A Guide for ONA Members

April 2024

The Ontario Nurses' Association (ONA) is the union representing 68,000 registered nurses and health-care professionals, as well as more than 18,000 nursing student affiliates, providing care in hospitals, long-term care facilities, public health, the community, clinics and industry.

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ONA Statement of Beliefs

Diversity, Equity and Inclusion

The Ontario Nurses' Association (ONA) believes that every member has the right to equal opportunity and full participation in the workplace and in the union. ONA recognizes and values the diversity of its membership and will work to promote equity and diversity in the workplace and in the union. It is the union's responsibility to see that diversity is reflected in its leadership:

Diversity is about acknowledging differences that can impact on the fair and equitable treatment of people. Diversity can include differences in sex, age, race, ethnicity, language, religion and spiritual beliefs, culture, physical or mental ability, socio-economic status, sexual orientation, gender identity and gender expression, family status, and education.

To achieve its commitment, ONA will strive to:

- Provide and promote education with respect to the human right values of equity, diversity and inclusion.
- Promote awareness of the diversity of our membership and the needs of diverse groups.
- Integrate diverse perspectives throughout ONA's educational programs and communications.
- Implement initiatives to develop the leadership skills of members from under-represented groups in ONA's leadership.
- Identify barriers to equal opportunity and full participation and develop effective policies and procedures to eliminate these barriers.
- Provide an inclusive environment that recognizes members' differences.
- Ensure that services, organizational structures, activities and policies include and address the needs of diverse members.

Discrimination, Harassment, Bullying and Accommodation

ONA believes that every member has the right to be treated with dignity and respect.

ONA is committed to working towards the elimination of all forms of discrimination and harassment in the workplace and in the union. This includes discrimination and harassment based on grounds prohibited in the *Ontario Human Rights Code*, which are race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including pregnancy), sexual orientation, gender identity and gender expression, family status, age, record of offences, marital status, family status and disability. ONA will also work to eliminate personal harassment and workplace bullying (*Code* and non-*Code* harassment).

Accommodation may be required when dealing with members' needs related to disability, religion, family status, pregnancy or other grounds in the *Human Rights Code*. ONA is committed to pursuing accommodation in the workplace and providing accommodation at union functions.

To achieve its commitment, ONA will strive to:

- Provide educational programs and communications addressing discrimination, bullying, Code and non-Code harassment and accommodation issues.
- Conduct strategic collective bargaining on discrimination, bullying, Code and non-Code harassment and accommodation issues.
- Address breaches of members' rights through the grievance and arbitration procedure.
- Advocate for effective workplace policies and complaint investigation procedures.
- Provide policies and procedures for the investigation and resolution of membership complaints.
- Provide support mechanisms for members experiencing discrimination, bullying and Code and non-Code harassment.
- Provide a supportive and welcoming environment for members requiring accommodation.
- Provide services, organizational structures, activities and policies concerning human rights and equity issues.

Purpose of this Guide

This guide provides a general overview of many aspects of human rights and equity and will help answer questions that you may already have.

Specifically, it provides:

- Information on the rights and responsibilities of employers, unions and employees.
- Concrete examples to illustrate the commentary.
- Definitions of many human rights and equity terms.
- Information on filing complaints under your employer's workplace policy.
- Information on filing grievances under your collective agreement.
- Information on available ONA resources, how you can contact ONA offices, ONA's Human Rights and Equity Team and the Ontario Human Rights Tribunal.

This guide is only an overview. Your Bargaining Unit's Human Rights and Equity Representative, Bargaining Unit President, Labour Relations Officer and ONA's Human Rights and Equity Team can assist you further.

The ONA Human Rights and Equity Team

In 1997, ONA established a Human Rights and Equity Team, and you will see many references to the team throughout this guide.

The team is comprised of the following members:

- Chair: Vice-President, Human Rights and Equity Portfolio.
- Designated Membership Equity Groups:
 - Indigenous Members.
 - Members Living with Disabilities.
 - Francophone Members.
 - Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex Members (2SLGBTQI).¹
 - Racialized Members.
 - Ally Members.

Note: Every effort is made to ensure there are members representing each designated equity group.

- ONA Staff:
 - Human Rights and Equity Specialist.
 - Administrative Assistant.
 - Project Manager, Human Rights and Equity Team

ONA believes that every member has the right to equal opportunity and full participation in the workplace and in the union. ONA recognizes and values the diversity of its members and will work to promote human rights, diversity, equity and inclusion in the workplace and in the union. It is the Union's responsibility to integrate Diversity, Equity and Inclusion throughout its organization, including in its leadership.

For further information on ONA's Human Rights and Equity Team, visit the Human Rights and Equity section of the ONA website at www.ona.org/hre.

See the resources listed in Section 4 of this Guide for specific information on how to contact the Human Rights and Equity Team.

¹ Acronym used by Egale Canada as of 2019 based on a national survey they conducted. See <https://egale.ca/about/>. Note that these acronyms evolve over time and some terms can be used interchangeably. For example, "Q" can be interpreted to mean queer or questioning. "T" can be interpreted as transgender or transitioning.

ONA's Anti-Racism Advisory Team

Mandate/Terms of Reference

ONA stands in solidarity with Indigenous, Black and Racialized and historically marginalized communities and allies in Canada and around the globe calling for justice. The equal treatment of our members, and the freedom from all forms of racism, discrimination and harassment in the workplace are core tenets of our union. ONA's priority is to continue to take proactive steps in the short and long-term to address and take action against racial discrimination. ONA is committed to learning and unlearning racism at all levels of the organization.

Scope of Work

All work of this Team is recommendatory in nature and subject to Board approval:

- Recommend to the Board annually a work plan of deliverables for the Team.
- Recommend proactive steps in the short- and long-term to address and take action against racial discrimination.
- Work actively with Board members, staff and members to take proactive and corrective steps to facilitate more opportunities to name, address and educate about anti-racism and anti-oppression.
- Other projects as identified by the ONA Board.

Composition

- Chair of Committee - ONA Board member with HRE Portfolio.
- Nine (9) members who have responded to an Expression of Interest:
 - At least three Black members.
 - At least three Indigenous members; and
 - Up to three members from other racialized communities
- President and CEO serve as ex-officios.
- Staff support:
 - Human Rights & Equity Specialist.
 - Executive Lead, Human Resources.
 - 2-3 Subject matter experts, as necessary.

For further information on ONA's Anti-Racism Advisory Team, visit the Human Rights and Equity Section of the ONA website at www.ona.org/hre.

See the resources listed at Section 4 of this Guide.

Section 1: Human Rights

The Need for Human Rights Laws

“To deny people their human rights is to challenge their very humanity.”

~ Nelson Mandela ~

The need for laws to protect human rights grows out of a global history of marginalization and oppression. When we devalue or exclude people because of characteristics that they cannot change (such as race) or characteristics they can change only at great personal cost (such as religion), the stage is set for inequality.

Human rights continue to be a global issue. Legislative and policy responses such as the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms* and the *Ontario Human Rights Code* show that a growing commitment to the equitable and humane treatment of all people is a major concern on the world stage.

Human rights laws in Canada and Ontario provide protection for members of specific, equality-seeking groups. Without these laws, the right to full participation in society would not be achieved. We know this because of the history of each of these groups.

History provides us with insights into the profound effects of discrimination that linger in the values and beliefs of our society. The need for human rights laws and related initiatives in Canada are rooted in history.

Current laws demonstrate the value we place on ensuring, creating and maintaining a society free of discrimination. To create such a society, we must recognize the realities that interfere with this goal. Canada has its own history of discrimination against those people currently protected by the law. Many of these groups – for example, individuals living with disabilities, Racialized Canadians, Black Canadians, Indigenous People, the 2SLGBTQI community, and women – still struggle against systemic inequality and discrimination.

We can move forward towards the creation of a just society if we are able to look back and acknowledge the actions and behaviours that impede our progress.

Mary Seacole, born in Jamaica in 1805, was an unsung heroine of the Crimean War. Without waiting for Florence Nightingale, the woman most of us believe to be the first nurse, to arrive in the Crimea, she set out onto the battlefield to nurse the wounded. She arrived before Miss Nightingale and stayed longer, and yet history has forgotten her contribution to the nursing profession.

The following snapshots highlight the need to establish and protect the rights of vulnerable groups within our society:

- A report released this week by York University’s Institute for Social Research reveals that 90 per cent of Black Canadians believe that racism in the criminal justice system is a serious problem. They are closely followed in that belief by the country’s Indigenous people, at 82 per cent.
Source: McKinley, S. (2023, July-16) Black Canadians gave views on racism in the justice system and experiences with police. Results were ‘stunning’. TorontoStar.com.
- Black people have reported being stopped by the police more than twice as much as any other group. Twenty-two percent (22%), or more than one-in-five Black Canadians, report that they have been unfairly stopped by police in the last 12 months.
East Asian or South-East Asian (8%), Indigenous groups (10%) and other Non-White people (11%) indicated that they have been stopped more than White Canadians but less than half as much as Black Canadians.
Source: Foster, L., Park, S., McCague, H., Fletcher, M.A., & Sikdar, J. (2023) [Black Canadian National Survey: Final Report](#) ., P. 54 Toronto: Institute For Social Research, York University.
- The Canadian Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls have exposed the ongoing crisis of inequality facing Indigenous Canadians and, in particular, Indigenous women and two-spirit people. Both reports identify colonialism and a century of Canadian policy dedicated to eliminating Indigenous communities and culture, as the root cause of this inequality, cultural genocide and genocide. The discovery of 215 unmarked graves of Indigenous children at a residential school in Kamloops has reignited awareness and a call for action regarding of Canada’s painful history. [Truth and Reconciliation Commission of Canada \(rcaanc-cirnac.gc.ca\) Final Report | MMIWG \(mmiwg-ffada.ca\)](#)
- “More than 1700 unmarked graves have been discovered near the former sites of seven Canadian Indian residential schools in the Northwest Territories as well as in the provinces of Manitoba, British Columbia, and Saskatchewan.”
Retrieved from:
<https://storymaps.arcgis.com/stories/cfe29bee35c54a70b9621349f19a3db2>
Carina Xue Luo, Academic Data Centre, Leddy Library, University of Windsor, Sept. 6, 2022.
- “Disability” continues to be the most frequently cited ground of discrimination under the Code in human rights claims made to the Human Rights Tribunal of Ontario (HRTO). (OHRC, 2016, p.3). Source: Ontario Human Rights Commission (2016) *Policy on ableism and discrimination based on disability*. Retrieved from: https://www3.ohrc.on.ca/sites/default/files/Policy%20on%20ableism%20and%20discrimination%20based%20on%20disability_accessible_2016.pdf

- In 2021, women between the ages of 25 and 54 earned \$3.79 (11.1%) less per hour, on average, than their male counterparts in Canada. In other words, women in this age group earned \$0.89 for every dollar earned by men.²
- Violence against women continues to be a pressing issue. In Canada in 2020 a woman or girl was killed every 2.28 days, most commonly by family members or intimate partners. ([“#CallitFemicide, Understanding Sex/Gender related killings of women and girls in Canada”](#)).
- In July 2023, the City of Toronto declared gender based and intimate partner violence an epidemic. (CBC article, July 20, 2023).
- In 2022, 184 women and girls were violently killed, primarily by men. One woman or girl is killed every 48 hours ([Canadian Femicide Observatory for Justice and Accountability, 2022](#)).
- Many First Nations continue to experience chronic water issues, even when neighboring municipalities enjoy access to safe, clean and reliable drinking water. These challenges are compounded by, and partially a result of, historical injustices First Nations face as a result of the legacy of colonialism, forced relocation, residential schools and systemic racism in Canada. ([Glass Half Empty? Year 1 Progress Toward Resolving Drinking Water Advisories in Nine First Nations in Ontario © February 2017 David Suzuki Foundation](#)).
- “The lack of consideration for First Nation realities is revealed in the healthcare system’s preference for English and biomedicine over accommodation of First Nation languages and traditional medicines. Through their stories, participants showed how the onus was upon them to adjust to biomedicine, rather than the reverse.” (Phillips-Beck, W., Eni, R., Lavoie, J. G., Avery Kinew, K., Kyoon Achan, G., & Katz, A., 2020).³
- Income inequality persists no matter where Aboriginal peoples live in Canada. The income gap in urban settings is \$7,083 higher in urban settings and \$4,492 higher in rural settings. Non-Aboriginal people working on urban reserves earn 34% more than First Nation workers. On rural reserves, non-Aboriginal Canadians make 88% more than their First Nation colleagues (p. 3). Source: Wilson, D., & Macdonald, D. (2020) [The Income Gap Between Aboriginal Peoples And The Rest Of Canada](#). Ottawa: Canadian Centre for Policy Alternatives.
- Joyce Echaquan, a 37-year-old Atikamekw mother of seven, writhing in pain, filmed herself on Facebook live as a nurse and an orderly were heard making derogatory comments shortly before her death in September 2020 at a hospital in

² Quality of Employment in Canada Pay Gap 1998 to 2021, Statistics Canada, May 30, 2022, available online at [Pay gap, 1998 to 2021 \(statcan.gc.ca\)](#).

³ Phillips-Beck, W., Eni, R., Lavoie, J. G., Avery Kinew, K., Kyoon Achan, G., & Katz, A. (2020). Confronting Racism within the Canadian Healthcare System: Systemic Exclusion of First Nations from Quality and Consistent Care. *International Journal of Environmental Research and Public Health*, 17(22), 8343. MDPI AG. Retrieved from <http://dx.doi.org/10.3390/ijerph17228343>. This is the cite for all Phillips-Beck references.

Joliette, Quebec, northeast of Montreal. The inquest into her death exposed in grim detail the racist and neglectful hospital treatment, and the insecurity of her fellow Atikamekw and other Indigenous people when facing the medical system. Ms. Echaquan's complaints of pain had been dismissed, greeted with racist comments, misdiagnosed as withdrawal from painkillers, and then further misdiagnosed as a psychotic episode. The inquest heard that Echaquan had died of excess fluid in the lungs, likely caused by heart failure.

- Understanding effects of racism on health behaviours requires an understanding of the history of intergenerational trauma caused by the residential school system with what Boyer called “it’s myriad tentacles of physical and sexual abuse” [38] and other policies rooted in colonialism. History has established a platform upon which a substantial power imbalance between healthcare providers and First Nation patients may persist. (Phillips-Beck, W., et al 2020, p. 4).
- Examples, like the stories of Brian Sinclair who, in 2008, died in the waiting room of Winnipeg’s Health Sciences Centre after waiting 34 hours to be seen for a treatable illness, which would have required a fairly minute procedure, and the many women in Saskatchewan who received tubal ligations without their consent, are examples of blatant racism against Indigenous peoples and are numerous. (Phillips-Beck, W., et al. 2020, p. 4).
- The [Statistics Canada](#) hate crimes report notes that in 2021 there was a 64-per-cent rise in crimes against members of the LGBTQ community and a 67-per-cent increase in incidents linked to a person’s religion. There were 423 hate crimes reported because of sexual orientation, up from the previous peak in 2019 of 265. Tyler Boyce, executive director of the Enchante network, which represents 300 LGBTQ organizations, said the statistics were an understatement of the amount of abuse gay and lesbian people experience, and more support was needed. He expressed concern that Statscan does not track abuse directed at transgender people.
(Source: Wolf, M., & Hager, M. (2023, Mar. 22) Police-reported hate crimes jumped a record 27% from 2020 to 2021: Statscan. Ottawa: Globe and Mail.com retrieved from: <https://www.theglobeandmail.com/politics/article-record-jump-in-lgbtq-religious-hate-crimes-cases-reported-to-police/>. Statistics Canada (2023) Police-reported hate crime, 2021. Retrieved from: <https://www150.statcan.gc.ca/n1/daily-quotidien/230322/dq230322a-eng.htm>
- “.....’trans’ people are one of the most disadvantaged groups in society. They routinely experience prejudice, discrimination, harassment, hatred and even violence. People who are in the process of “transitioning” or “coming out” are particularly vulnerable.¹ Many issues go to the core of human dignity. Courts and tribunals have recognized this as “substantial and disturbing.”² (OHRC, 2014, p.5). Source: Ontario Human Rights Commission (2014) Policy on preventing discrimination because of gender identity and gender expression. Retrieved from: <https://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

- “...Pride Month is, ironically, among the most dangerous times for members of Toronto’s LGBTQ community. (Similarly, anti-Black hate crimes peak in February, Black History Month.) The hate crime reports don’t provide data on attacks specifically against trans and non-binary people, but the trans community has undoubtedly borne the brunt of much of this hate in recent years.” Source: Pride celebrations tempered by intolerant backlash faced by LGBTQ individuals. (2023, Jun 23). Retrieved July 20, 2023, from: TheStar.com
- Since the World Trade Centre attacks on September 11, 2001, the rise of Islamophobia has led to increasingly negative portrayals of Muslims in the media. Racial profiling and other types of discrimination ascribing the behaviour of individuals to a group has the impact of damaging everyone in that group. Increasingly, the rights of Muslim individuals to abide by their religious beliefs are being attacked.
- A Rise of Hate: White supremacy and far-right extremist groups are on the rise in Canada and directly threaten the safety of minority communities, including the Muslim community. Since the 2017 attack on the Quebec city mosque, anti-Muslim hate crimes have been on the rise and online hate is creating an environment of fear and division. (National Council of Muslim Canadians <https://mk0nccmorganizadbkcm.kinstacdn.com/wpcontent/uploads/2019/09/NCCM-2019-Federal-Elections-Guide>).
- Canadian health-care stakeholders have identified racism as a public health crisis and emphasized its profound effects on racialized groups. Systemic racism in health care exists because it has been normalized, ignored or denied with the burden placed on racialized groups to prove that discrimination has occurred.
- “Evidence reveals that racism exists within the Canadian healthcare system. Though touted by Canadians to be one of the best in the world, the Canadian Public Health Association acknowledges Canada as a nation where race, culture and religion are persistent determinants of health inequities. Effects are compounded for Indigenous peoples.” Source: Phillips-Beck et al, 2020, p.2.

As we strive towards equality and the formation and maintenance of a just society, discrimination against people belonging to distinct groups is an ongoing challenge. Our evolving human rights laws reflect our dedication to achieving this goal.

Human Rights Laws

International

“...recognition of the inherent dignity and of the equal and inalienable rights of all members of freedom, justice and peace in the world...”
 ~ *United Nations Universal Declaration of Human Rights (preamble)* ~

Universal Declaration of Human Rights

In 1948, the General Assembly of the United Nations unanimously adopted the *Universal Declaration of Human Rights*. It outlines the personal, civil, political, economic, social and cultural rights of all people.

The declaration establishes that all people are born free, equal in dignity and rights. Everyone is entitled to the rights and freedoms outlined regardless of distinctions of any kind, such as race, colour, sex, language, religion, political opinion, national or social origin, birth or other status.

The declaration protects such rights as:

- The right to work under just and favorable conditions, to protection against unemployment, to equal pay for equal work, and to form and join trade unions.
- The right to freedom of thought, conscience and religion, including religious practice, worship and observance.
- The right to equal access to public services.

Federal

The Canadian Charter of Rights and Freedoms

“The genuine pursuit of equality is a litmus test that gauges our success as a liberal democracy. Canada has affirmed its commitment to this pursuit by the inclusion of Section 15 of the Canadian Charter of Rights and Freedoms.”

~ Judge Rosalie Silberman Abella ~

The *Charter* forms part of the constitution of Canada and all federal and provincial laws must comply with its human rights guarantees. It is Canada’s most important law because it can render invalid or inoperative any laws, provincial or federal, that are inconsistent with its provisions.

Section 15 of the *Canadian Charter of Rights and Freedoms* guarantees that every person is equal under and before the law without discrimination on the grounds of race, national or ethnic origin, colour, religion, sex, age, mental or physical disability or other analogous grounds, such as sexual orientation. It recognizes that some groups in society are disadvantaged, and programs designed to remedy disadvantage are necessary and legal. Employment equity programs are consistent with the *Charter*.

Section 15 prohibits individual acts of discrimination against protected groups and systemic discrimination, which includes patterns of behaviour, policies or practices that are part of the social or administrative structures of an organization or government policy, and which create or perpetuate a position of relative disadvantage for groups identified under the *Charter*.

The Canadian Human Rights Act

“Every individual should have an equal opportunity with other individuals to make for himself or herself the life that he or she is able and wishes to have, consistent with their duties and obligations as a member of society.”

~ *Section 2 of the Code* ~

The *Canadian Human Rights Act (CHRA)* applies to federally regulated industries and government bodies, including federal departments, agencies and crown corporations, Canada Post, chartered banks, national airlines, interprovincial communications, telephone and transportation companies and other federally regulated-industries, such as mining.

The grounds for discrimination covered by the *CHRA* include race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or pardoned conviction.

The social areas covered under the *CHRA* include employment, employee organizations, provision of goods and services, residential accommodation, discriminatory notices, harassment, and equal wages.

Provincial

The Ontario Human Rights Code

“Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all.”

~ *Catherine Frazee, Former Chief Commissioner* ~

The public policy of Ontario is to recognize the dignity and worth of all, to provide equal rights without discrimination, and to create a climate of understanding and mutual respect so that everyone feels a part of the community and can contribute to the development and well-being of the province.

The *Human Rights Code (the Code)* is Ontario’s counterpart to the *Canadian Human Rights Act*. Both statutes are “quasi constitutional” legislation, meaning they supersede any other statute enacted by the legislature or Parliament. All Ontario laws must comply with the *Code*. The *Code* applies to most health-care facilities in Ontario.

The purpose of human rights legislation is not to find fault, but to eliminate discrimination and provide redress. It is meant to be preventative and remedial, rather than punitive. Human Rights legislation, such as the *Code* and the *CHRA*, exist to eliminate discrimination based on specific grounds (such as race, religion

or sex) in a number of social areas (such as employment or contracts). Their purpose is to remedy and prevent discrimination and not necessarily to punish and find fault.

A remedy to a human rights application might include restoring the person to a position the individual would have held had the *Code* not been violated. It may consist of compensation for loss of earnings or job opportunities, or damages for mental anguish suffered as a result of the violation, as well as systemic remedies such as ordering diversity training and the development of policies and procedures.

The first comprehensive human rights law in Ontario was enacted in 1962. The *Human Rights Code* has been amended several times since then to meet the needs of the people of Ontario in the creation of a just society.

The *Ontario Human Rights Code* provides protection against discrimination by individuals in the private sector and by governments within the designated social areas as set out on the first chart in the next section. In this, the *Code* differs from Section 15 of the *Charter* (equality rights), which only regulates government action.

The Ontario Human Rights System is made up of three separate agencies:

- The Ontario Human Rights Commission works to promote, protect and advance human rights through research, education, targeted legal action and policy development.
- The Human Rights Legal Support Centre provides free legal help to people who have experienced discrimination under the *Code*.
- The Human Rights Tribunal is where human rights applications are filed and decided.

Prohibited Social Areas of Discrimination

The *Code* prohibits actions that discriminate against people based on a protected ground in the following protected *social* areas.

<p>Services, Goods and Facilities</p>	<p>These include government, public sector, the broader public sector, private sector, non-profit and community organizations that offer any type of service.</p> <p>Examples of the types of organizations deemed to provide services within this definition are hospitals, schools, stores, hotels, government offices, community and other organizations that are not established to meet cultural or other needs of a specific group otherwise prohibited by the <i>Code</i>. In other words, if any type of service is provided, discrimination is prohibited unless otherwise stated.</p> <p>If a patient/client believes they have been discriminated against by an ONA member, they could file a complaint under this section.</p>
<p>Employment</p>	<p>Employment does not simply cover getting a job. It refers to all aspects of an employment process, such as job advertisements, job applications, interviews, promotion, developmental opportunities, performance appraisals, termination and working conditions. It covers all employees, including unionized employees covered by a collective agreement. The <i>Code</i> states that every person has a right to equal treatment with respect to employment without discrimination or harassment on the basis of any of the 17 grounds of discrimination. The right to “equal treatment with respect to employment” covers every aspect of the workplace environment and employment relationship, including job applications, recruitment training, transfers, promotions, discipline, performance evaluations, dismissal and layoffs. Labour arbitrators have jurisdiction to interpret and apply the <i>Code</i>.</p>
<p>Accommodation</p>	<p>Accommodation refers to housing. It is illegal to discriminate against people based on their membership in a group protected under the <i>Code</i> in any matter related to obtaining, maintaining, and keeping a place to reside, except where a bathroom or kitchen is shared with the owner of the place of residence.</p>
<p>Contracts</p>	<p>Contracts are legal arrangements entered into by two or more parties. It is illegal to deny or qualify a contract on the basis of a person’s or persons’ membership in a group protected by the <i>Code</i>.</p>
<p>Vocational Associations (Unions)</p>	<p>A union cannot treat a member differently because that member belongs to a group protected under the <i>Code</i>.</p>

Not all unfair treatment and harassment is covered by the *Code*. It **must be based on at least one Code ground** and take place within one of the designated social areas to be protected.

The following chart is a list of prohibited grounds identified in the Ontario Human Rights Code. You will find that the majority of ONA collective agreements prohibit discrimination on broader grounds. For example, Article 3.03 of the Hospital Central agreement states that “...there will be no discrimination...on the basis of race, creed, colour, national origin, sex, sexual orientation, marital status, family status, age, disability, religious affiliation or any other factor which is not pertinent to the employment relationship.”

Prohibited Grounds of Discrimination

Race	Visible characteristics of skin colour, facial features, hair texture, etc. used to place people in categories such as “Black” or “White.”
Ancestry	A person’s family lineage.
Place of Origin	The geographical place of birth.
Colour	The colour of one’s skin.
Ethnic Origin	Characteristics of culture, religion, nationality, etc. shared by a large group of people so as to make them distinct in the combination of the above.
Citizenship	Legal citizenship of any nation.
Creed	Religious doctrine and practices followed.
Sex	The classification of people as male, female or intersex. Sex is usually assigned at birth and is based on an assessment of a person’s reproductive systems, hormones, chromosomes and other physical characteristics. Under this ground, the <i>Code</i> prohibits discrimination because a woman is pregnant or may become pregnant.
Sexual Orientation	Sexual orientation is more than a status that an individual possesses. It is an immutable personal characteristic that forms part of an individual’s core identity. It encompasses the range of human sexuality from gay and lesbian to bisexual, pansexual, asexual and heterosexual orientations.

Gender Identity	<p>Is each person’s internal and individual experience of gender. It is a person’s sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the same as or different from their birth-assigned sex.</p> <p>For most people, their sex and gender identity align. For some, it does not. A person may be born male, but identify as a woman, or born female, but identify as a man. Other people may identify outside the categories of woman/man or may see their gender identity as fluid and moving between different genders at different times in their life.</p>
Gender Expression	<p>Is how a person publicly presents or expresses their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways people express their gender. Others perceive a person’s gender through these attributes. All people, regardless of their gender identity, have a gender expression and they may express it in any number of ways. For trans people, their chosen name, preferred pronoun and apparel are common ways they express their gender. People who are trans may also take medically supportive steps to align their body with their gender identity.</p>
Age	<p>Persons 18 years or over.</p> <p>Note: While changes to the Code ended mandatory retirement based on age, certain provisions related to age may be exempt under the <i>Employment Standards Act</i>, such as benefits like accidental death and dismemberment, long-term disability and life insurance. Some special programs and benefits, such as seniors’ discounts or youth employment programs, deal with genuine age-related needs. Outside of these types of programs, it may be age discrimination when you are treated unfairly because of your age.</p>
Marital Status	<p>The status of being married, single, widowed, divorced or separated, including the status of living with a person in a conjugal relationship outside marriage.</p>
Family Status	<p>A parent-child relationship.</p>
Record of Offences	<p>Any federal offence for which a pardon has been granted, or any record of provincial offences.</p>

Disability	Employers must look at a person’s record of offences and consider whether the offence would have a real effect on the person’s ability to do the job, and risk associated with them doing it.
Disability	Any degree of physical disability, infirmity or malformation; any developmental disability, learning disability or dysfunction in understanding or using symbols or spoken language; any mental disorder; anyone who has claimed Workplace Safety and Insurance Board (WSIB).

ONA Collective Agreements

Employees covered by an ONA collective agreement are protected against discrimination and harassment in the workplace in accordance with the provisions in the collective agreement and in the *Human Rights Code*.

In 2003, the Supreme Court of Canada issued a decision known as “*Parry Sound*,” which had the effect of incorporating human rights legislation into every collective agreement between unions and employers. The substantive rights and obligations of the *Code* are incorporated into collective agreements, and violations of the *Code* are violations of the collective agreement. Arbitrators must implement and enforce the substantive rights and obligation of the *Code* as if they were part of the collective agreement.

Pay Equity

Pay structures that compensate members of protected groups less for work of equal value are discriminatory and violate human rights laws. Pay inequality largely impacts women and, in particular, women facing intersecting grounds of inequality. Unequal pay structures may be intentional or may be the product of longstanding systemic bias against women, including undervaluing women’s work, denying women economic opportunities, and exploiting women’s limited options.

Pay equity is not just about paying women less for work of equal value. It also considers the systemic devaluation of the work traditionally performed by women and work perceived to be “female” on account of stereotypes. Our courts have recognized that “the more women are concentrated in a field of work, the less it pays.”⁴ This undervaluing of women’s work contributes to women’s inequality in society, including the higher representation of women among Canadians living in poverty.

Canada’s Supreme Court described this as “systemic discrimination premised on the historic economic and social devaluation of women’s work compared to men’s

⁴ *Centrale des syndicats du Quebec v Quebec (Attorney General)*, 2018 SCC 18 at para 34.

work.⁵ It stated that pay inequality “denies substantive equality to working women, entrenching and perpetuating their pre-existing disadvantage.”⁶

Pay Equity Act

The *Pay Equity Act* came into force in 1988 and applies to all employers and employees in Ontario, except for those that fall under federal jurisdiction and private employers with fewer than 10 employees and summer students. The purpose of the *Act* is to redress systemic gender discrimination in compensation for employees working in female job classes in Ontario (s. 4(1)). The *Act* sets out the responsibilities and obligations of employers and unions with respect to pay equity, and it requires employers to establish and maintain compensation practices that provide for pay equity (s. 7(1)).

The *Act* provides for three methods of comparison of job values to achieve pay equity.

The first means of establishing pay equity across the same employer is by comparing male job classes to female job classes in the same establishment and is known as the “job-job” method of comparison.

The second method, called “proportional value,” determines the relationship between the value of the work performed and the job rates using a representative group of male job classes from one workplace.

The third method, called the “proxy methodology,” is available only to the public sector and broader public sector, and is used to achieve pay equity in workplaces where little or no men’s work is performed. Under this method, a key female job class in one employer’s workplace (the “seeking employer”) is compared to an analogous female job class in a different employer’s workplace (the “proxy employer”) where pay equity has already been achieved.

ONA recently celebrated a significant win regarding the proxy methodology following a 15-year battle to maintain pay equity for RNs working in female-dominated workplaces. On March 9, 2021, Ontario’s Court of Appeal confirmed that ONA members in the proxy sector are entitled to a pay equity maintenance scheme that provides ongoing access to an external male comparator, giving them an ongoing reference point to male work.⁷

⁵ *Centrale des syndicats du Québec v. Quebec (Attorney General)*, 2018 SCC 18 at para 24.

⁶ *Quebec (Attorney General) v Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17 at para 40.

⁷ *Ontario Nurses’ Association v. Participating*, 2021 ONCA 148. See also *Participating Nursing Homes v. Ontario*, 2021 ONCA 149.

Comparing female work to male work is the essence of pay equity and the Court's majority recognized that such a comparison is foundational to the maintenance of pay equity even in the proxy sector where the workplaces are female dominated.

Not surprisingly, this decision was appealed by the employer group and the Attorney General of Ontario to the Supreme Court of Canada. However, in October of 2021, the Supreme Court ruled in ONA's favour by refusing to grant the employer group and the Attorney General of Ontario leave to appeal.

Diversity, Equity and Inclusion

ONA believes that every member has the right to equal opportunity and full participation in the workplace and in the union. ONA recognizes and values the diversity of its membership and will work to promote diversity, equity, and inclusion in the workplace and in the union. It is the Union's responsibility to integrate Diversity, Equity, and Inclusion throughout its organization, including in its leadership.

Diversity is about acknowledging differences that can impact on the fair and equitable treatment of people. Diversity includes and is not limited to differences in sex, age, race, ethnicity, language, religion and spiritual beliefs, culture, physical or mental ability, socioeconomic status, sexual orientation, gender identity and gender expression, family status, and education.

Inclusion refers to a system and/or process where all individuals and groups feel welcomed, respected, and valued.

Equity refers to the recognition that each person is unique, and decisionmakers/ individuals do what they are able to do in their power to identify and eliminate unfair biases, stereotypes and/or barriers. It is also a process that applies fairness, impartiality, and even-handedness to achieve substantive equality in all aspects of a person's life.

To achieve its commitment, ONA will strive to:

- Promote awareness of the diversity of our membership and the needs of diverse groups.
- Integrate diverse perspectives throughout ONA's educational programs and communications.
- Implement initiatives to develop the leadership skills of members from underrepresented groups in ONA's leadership.
- Identify barriers to equal opportunity and full participation and develop effective policies and procedures to eliminate these barriers.
- Provide an inclusive environment that recognizes members' differences.
- Ensure that services, organizational structures, activities and policies include and address the needs of diverse members.

There are many tools and strategies available for employers and unions to work together towards building equity within the workplace. For example, the Central Hospital collective agreement includes a letter of understanding regarding the parties' commitment to equity, diversity and inclusion. These are the important components:

- Adopting an equity framework to identify the barriers to equity.
- Developing and implementing a plan of action to remove barriers and promote equity.
- Providing education and support to reinforce the principles of equity, diversity and inclusion.
- Developing and implementing an evaluation plan to monitor results.

Equality Versus Equity

There is a common misconception that equality and equity are interchangeable terms. Equality seeks to give everyone the same opportunities. The principle of equity, however, recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome for that person. To treat everyone the same way is to deny the existence of systemic barriers. To take the position, for example that one should be 'colour blind' ignores the reality of intersectional forms of racial discrimination.

Equity is concerned with fair treatment, access, opportunity and advancement for all people, while at the same time striving to identify and eliminate barriers that prevent the full participation of Indigenous, Black, Racialized and historically marginalized groups. It addresses the reality that there are historically underserved and underrepresented populations and that fairness regarding these unbalanced conditions is necessary to provide equal opportunities to all groups.

Equality and equity are inherently different but are interconnected. In order to create true equality of opportunity, equity is needed to ensure that everyone has access to the same opportunities. Equity does not undermine equality but rather provides the means to achieve it.

Health Equity – The Social Determinants of Health

Health equity means that all people can reach their full health potential without disadvantage due to socially determined factors such as ability, age, culture, ethnicity, family status, gender, language, race, religion, sex, gender identity, gender expression, nationality, sexual orientation, social class or socioeconomic status.⁸

⁸ Gender Identity refers to a person's internal and individual experience of gender, including their sense of being anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender Expression refers to a person's presentation

Health inequities are health differences and negative outcomes that are:

- Impacted by experiences, including trauma, exclusion, colonialization, discrimination and intersectional forms of racism.
- Systematic, meaning that health differences are patterned, where health generally improves as socioeconomic status improves.
- Socially produced, and therefore could be avoided by ensuring that all people have the social and economic conditions that are needed for good health and wellbeing; and
- Unfair and/or unjust because opportunities for health and well-being are limited.⁹

ONA strongly supports achieving health equity in our health care system and advocates for the examination of policy issues through a social determinants of health lens. The intersections of race, income, language, housing, food security, access to clean water, immigration status and other social determinants of health place people living with disabilities, Black, Indigenous and 2SLGBTQI communities at greater risk of negative health outcomes. For example, Covid 19 has and continues to have, a disproportionate traumatic impact on historically marginalized communities, including Indigenous and Black communities.

Health agencies have acknowledged that intersectional forms of racism impact access to health equity. In 2020, the Toronto Board of Health recognized that anti-Black racism is a public health crisis. In addition, the 2020 Chief Public Health Officer of Canada's Report stresses that while the pandemic has affected all of us the health impacts have been much worse for seniors, essential workers many of which are from Racialized communities, people living with disabilities and women. It reviews the inequities affecting these groups prior to the emergence of COVID-19 and how these inequities were exacerbated by the pandemic itself. The Report recognizes Canada's history of systemic racism and colonization and the role of social determinants of health in existing health inequalities among Canadians.

Professional Practice Standards: The Provision of Culturally Safe Care

The provision of culturally safe care is essential to achieving health equity for Indigenous, Black and Racialized historically marginalized individuals and communities. This requires a practice of cultural humility and the development of cultural competence.

of their gender, including their behaviour and outward appearance such as dress, hair, make-up, body language and voice. Other ways of expressing one's gender includes (chosen) name and pronouns. Source: Ontario Human Rights Commission, [Policy on preventing discrimination because of gender identity and gender expression](#) (2014).

⁹ Health Equity Guideline, 2018 Ministry of Health and Long-Term Care.

Cultural Humility refers to a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural humility involves humbly acknowledging oneself as a learner when it comes to understanding another's experience.

Cultural Competence refers to when individuals use awareness, knowledge, and understanding to value cultural diversity and promote fairness, justice, and community confidence.

Cultural Safety refers to an environment that is physically, socially, emotionally, and spiritually safe. There is recognition of, and respect for, the cultural identities of others, without challenge or denial of an individual's identity, who they are, or what they need. Culturally unsafe environments can diminish, demean, or disempower the cultural identity and well-being of an individual.¹⁰

Increasingly these concepts and principles are being recognized in health care by professional associations and regulatory bodies.¹¹

The College of Nurses of Ontario (CNO) has prioritized culturally safe care its Code of Conduct Practice Standard, as follows:¹²

“To maintain public trust and confidence in the nursing profession's integrity and care, the Code outlines safe and ethical practice requirements based on current evidence. The Code is also informed by legislation, such as the *Ontario Human Rights Code* and recommendations in the *Truth and Reconciliation Commission of Canada: Calls to Action* (2015).

The Code puts clients at the centre of nursing care and includes principles of diversity, equity and inclusion to ensure client care is safe, compassionate, equitable and discrimination free.”

The Code of Conduct consists of six principles. Principle 2 states¹³:

- “Nurses provide inclusive and culturally safe care by practicing cultural humility.”

The introduction to Principle 2 states:

¹⁰ These three descriptions are found in Section 3: Human Rights & Equity Terms.

¹¹ See the following cites for further information on the provision of culturally safe care:

- [culturally-safe-and-inclusive-practice-practice-advice-2021.pdf \(nurses.ab.ca\)](#)
- [Embracing_Cultural_Diversity_in_Health_Care_-_Developing_Cultural_Competence.pdf \(rno.ca\)](#)
- [Cultural Awareness in Healthcare: A Checklist \(qualityinteractions.com\)](#)
- [Understanding equality and diversity in nursing practice - PubMed \(nih.gov\)](#)

¹² [49040_code-of-conduct.pdf \(cno.org\) p. 3](#)

¹³ Ibid, p. 6.

“In this principle, nurses demonstrate cultural humility through self-reflection and evaluating their own behaviour. They advocate for equitable and culturally safe care that is free from discrimination. This includes understanding how personal attributes and societal contexts, such as disabilities, sexual identity, anti-Indigenous and anti-Black racism, influence client care.

The Principle sets out the core behaviours nurses are expected to model to achieve this principle. CNO provides a list of helpful practice resources for guidance on the provision of culturally safe care as well as reports to support and strengthen nurses' learning on culturally safe care.¹⁴

¹⁴ [Culturally Safe Care Resources \(cno.org\)](https://www.cno.org/culturally-safe-care-resources)

Section 2: Discrimination and Harassment

Discrimination

Types of Discrimination

Discrimination may occur in different ways.

Direct Discrimination

This describes an act, behaviour or practice of treating a person unequally/ An example: A nursing home supervisor feels that it is best not to hire “non-White” nurses. They believe that many of the residents in the institution are set in their beliefs and prejudices and don’t want to be care for by a racially diverse nursing group.

Adverse Effect Discrimination

Adverse effect discrimination occurs when a rule or requirement of a job that may appear neutral has an adverse effect when applied to a particular class of individuals. So, for example, mandatory height and weight requirements have been found to be discriminatory because they would exclude certain races or women, who could otherwise do the job. Similarly, workplaces with strict uniform guidelines may have an adverse impact on individuals and groups whose religion requires them to wear certain items, such as a turban, hijab or kippa. The employer is expected to accommodate the individual(s) in the group unless it can be shown that the needs of the individual(s) cannot be accommodated without undue hardship.

Systemic Discrimination

Systemic discrimination, on the other hand, is much more insidious. It is when attitudes towards or perceived characteristics of a particular group lead to discrimination. Historical examples of this are:

- The routine exclusion of women from the building trades because it was assumed that they could not handle the physical requirements of the job.
- The systemic relegation of women to low-paying menial jobs because of the perception that they were only going to quit to have children anyway.

As described in the pay equity section, the undervaluing of women’s work is an example of systemic discrimination.

In the hospital sector, if racialized nurses have, in some cases, been disproportionately placed in long-term care units where the patient care is routinely more physically demanding, or if in an institution where a significant number of the nurses were racialized, but all management was White, we would have to consider systemic racial discrimination.

In the early 1990s, a group of racialized minority nurses at a large urban hospital were unjustly disciplined and some were fired. They – and ONA – believed they were disciplined because of systemic racism targeting Black women. Some of the alleged practices that led to the human rights complaints and grievances included:

- Conducting one reference check for White nurses and three for Black nurses.
- Streaming racialized nurses into areas of practice that offered little opportunity for advancement or professional development (chronic care versus acute care) and involved heavy workloads that often led to injury.
- Requiring Black nurses to provide doctors' notes on return from sick leave when others were not required to do so.
- Including personal and irrelevant information about family, place of origin and English proficiency in job applications and personnel files about Black nurses.
- Requesting that other nurses report information about Black nurses that could later be used against the Black nurses.
- Censuring Black nurses for speaking Creole amongst themselves, while other nurses who spoke their first language amongst themselves were not.
- Refusing to support Black nurses when they were racially harassed and abused by patients and their families.

ONA, the hospital and the Ontario Human Rights Commission reached a settlement, which included the following terms:

- The hospital would pay compensation to the nurses.
- The hospital would use a mechanism to address systemic discrimination.
- The hospital would set up a human rights committee.
- The hospital would educate all managers and staff on issues dealing with discrimination and racism.

Intersecting Grounds of Discrimination

The Ontario Human Rights Commission notes “intersecting grounds of discrimination may be unique or distinct when it occurs based on two or more *Code* grounds...and that marginalization and exclusion based on *Code* grounds may exist because of how these identities intersect.”¹⁵

Many people experience inequality on multiple grounds. It is crucial to be aware that often people's experiences are the product of many forms of discrimination. For example, Racialized women face particular barriers to equality arising from the intersections of sexism, racism and other forms of discrimination. By focusing on only one axis of discrimination, one may conclude that a workplace that provides opportunities to both Black men and White women is compliant with human rights

¹⁵ For a more detailed discussion about intersecting grounds in the *Code* refer to the Ontario Human Rights Commission's [Policy on ableism and discrimination based on disability](#) (2016).

legislation, and entirely miss the intersecting inequalities faced by Black women. As the Human Rights Tribunal of Ontario stated, “reliance on a single axis where multiple grounds of discrimination are found tends to minimize or even obliterate the impact of racial discrimination on women of colour who have been discriminated against on other grounds.”⁵

As discussed in the Pay Equity section on page 12, the gender wage gap continues to pose a barrier to women’s equality in Ontario. In 2021, women between the ages of 25 and 54 earned \$3.79 (11.1%) less per hour, on average, than their male counterparts in Canada. In other words, women in this age group earned \$0.89 for every dollar earned by men.¹⁶ Based on the 2016 Census data on women’s average annual earnings, Canadian women earn approximately 68 cents for every dollar earned by working men (a 32 per cent gender pay gap).¹⁷ The gap substantially increases when gender-based discrimination intersects with other forms of discrimination, including those forms often experienced by Racialized women, Black women, Indigenous women, immigrant and migrant women, women living with disabilities, elderly women, and 2SLGBTQI women. and gender non-binary folks.¹⁸

In Canada, the pay gap is approximately 56 per cent for women living with disabilities, 55 per cent for immigrant women, 45 per cent for Indigenous women, and 40 per cent for racialized women.¹⁹ This data shows us that there is not one gender pay gap per se, but multiple pay gaps depending on several factors, including a person’s group membership. It is critical to view pay equity through an intersectional lens to gain a fulsome understanding of the extent of the pay gap and the way in which gender inequality intersects with other forms of inequality to create greater economic burdens for some women compared to others, and, in turn, to create appropriate solutions to close the gaps.

¹⁶ Quality of Employment in Canada Pay Gap 1998 to 2021, Statistics Canada, May 30, 2022, available online at [Pay gap, 1998 to 2021 \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/75-662-x/2022001/article/00001-eng.htm).

¹⁷ “Equal Pay Day is Coming!” Equal Pay Coalition, April 9, 2019, available online at <http://equalpaycoalition.org/wp-content/uploads/2019/03/OFL-Equal-Pay-Day-March-21-2019.pdf>.

¹⁸ Refer to the Social Research and Demonstration Corporation report, [LGBTQ2S+ voices in employment: Labour market experiences of sexual and gender minorities in Canada](#) for information about pay equity-related issues that impact members of LGBTQ2S+ communities. Gender non-binary is an umbrella term used to reflect a diversity of gender identities (e.g., genderqueer, agender, bigender, or pangender) that are not exclusively man or woman. Sources: EGALE, [Trans and Nonbinary Identities and Gender Diversity Terms and Concepts](#); Translation Bureau, [Gender and sexual diversity glossary](#), Government of Canada (2019).

¹⁹ *Ibid.* In Ontario, the overall pay gap is 29.3 per cent. For Indigenous women, the pay gap is 43 per cent; for racialized women, it is 38 per cent; and for immigrant women, it is 34 per cent (Equal Pay Coalition).

Harassment

Harassment means “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.” Threats, assault and sexual assault are forms of harassment and may further constitute criminal offences under the *Canadian Criminal Code*.

Harassment is one type of discrimination addressed by the *Code*. Though harassment can take many forms, the *Code* specifically prohibits harassment related to the grounds defined in the chart on page 11.

In most cases, harassment refers to a pattern of objectionable behaviour involving a series of incidents that may be similar or different in nature. In some cases, a single incident of vexatious behaviour may occur that is serious enough to amount to harassment.

Sexual Harassment

Sexual harassment in the workplace is specifically forbidden by the *Code*. Its most common form is the behaviour of men towards women; however, it can also occur between men, between women, or in the behaviour of women towards men. Sexual harassment may be broadly defined as unwelcome conduct of a sexual nature that detrimentally affects the victims of the harassment.

Sexual harassment is a violation of the *Human Rights Code* because of its impact on the equality and dignity of the victim. Sexual harassment can negate the victim’s worth and reduce their work value to a sexual object. It can make victims, most commonly women, feel unsafe at work. It can interfere with the target’s workplace advancement and thereby perpetuate women’s systemic inequality. Sexual harassment is an equality rights issue that must be taken seriously to advance meaningful equality rights.

The Supreme Court of Canada has stated:

When sexual harassment occurs in the workplace, it is an abuse of both economic and sexual power. Sexual harassment is a demeaning practice, one that constitutes a profound affront to the dignity of the employees forced to endure it. By requiring an employee to contend with unwelcome sexual actions or explicit sexual demands, sexual harassment in the workplace attacks the dignity and self-respect of the victim both as an employee and as a human being.²⁰

²⁰ *Janzen v Platy Enterprises Ltd*, [1989] 1 SCR 1252 at 1284.

Some examples of persistent or repeated behaviour that is sexual harassment include:

- Sexual jokes causing embarrassment or offence.
- Leering, staring or making sexual gestures.
- Unwanted physical contact.
- Sexually degrading or obscene comments or displayed material.
- Sending sexual and/or offensive emails/texts/phone messages.
- Sexually degrading words to describe a person.
- Inquiries or comments about a person's sex life or sexual preferences.
- Unwelcome remarks about a person's clothing or physical appearance.
- Unwelcome sexual advances or propositions.
- An implied or expressed promise of a reward, benefit or advancement in return for sexual favors, or reprisal if such favour are not given.
- Unwanted contact or attention after the end of a consensual relationship.
- Verbal abuse or threats.
- Assault, including sexual assault.

Some examples of behaviour that may not be considered sexual harassment include:

- An occasional compliment or remark.
- Personality differences between people.
- Good natured jokes and jesting where both parties find the conduct acceptable.
- Romance and flirtation when both parties enter into a voluntary relationship.

Sometimes people may be confused about what kind of conduct is “reasonably known to be unwelcome.” The Human Rights Tribunal has clarified that the respondent cannot rely on gender stereotypes to justify their belief that the conduct was welcome, for example, claiming they believe that women say no when they really mean yes, or that women play “hard to get.”²¹

Protest or objection to the harassing conduct is not necessary to find sexual harassment. Many targets of harassment may feel afraid to speak out over fear of losing their job. In determining whether the sexual conduct was unwelcome, tribunals also consider the role of power imbalances. The greater the power imbalance, the greater the onus on the individual with the power advantage to ensure their actions are not unwelcome.

Touching another person in a sexual way without consent constitutes a sexual assault under the *Criminal Code*. In criminal law, it is illegal to touch another person sexually without receiving affirmative and voluntary consent at the time the touching occurs. Further, every sexual act requires new consent in law, in

²¹ *de los Santos Sands v. Moneta Marketing Solutions Inc.*, 2016 HRTO 271 at para 34.

affirmation of the rights of every person to change their mind about their sexual partners and determine who touches their body, and how.

Personal Harassment

Personal harassment is harassment that is not based on any of the prohibited grounds in the *Human Rights Code*. It is any unwarranted conduct that is directed at and offensive to an individual or that has the effect of creating an intimidating, humiliating, threatening or hostile union environment.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered personal harassment:

- Making derogatory comments, remarks or jokes.
- Derogatory name-calling.
- Ridiculing, taunting, belittling or humiliating another person.
- Displays of offensive or derogatory material (i.e. cartoons, pictures, computer screens).
- Use of profane, abusive or threatening language.
- Yelling, shouting or other physically intimidating behaviour.
- Withholding needed information, advice or resources.
- Isolating, excluding and/or subjecting another person to silent treatment.
- Damage to or interference with personal property.
- Verbal or physical assault.

Bullying

Workplace Harassment

The *Occupational Health and Safety Act (OHSA)* defines workplace harassment as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.” This is a broad definition, which can be interpreted to cover harassment based on the prohibited grounds in the *Human Rights Code*, personal harassment and bullying.

Under the *OHSA*, employers must develop policies with respect to workplace harassment and programs to implement the policies. The programs must include information regarding how to report incidents of workplace harassment to the employer or the supervisor and how the employer will investigate and handle reports of harassment. Employers must provide information and instruction to workers on the contents of the workplace harassment policy and the program.

Some employers may have separate policies dealing with harassment prohibited by the *Human Rights Code* and workplace harassment. In some cases, it may be appropriate for ONA members to file complaints under both policies.

Your Rights

- You have the right to work in an environment that is free from harassment because of any of the prohibited grounds in the *Code*.
- You have the right to work in an environment that is free from personal harassment contrary to your collective agreement.
- You have the right to expect your employer to take your concerns seriously.

What to do if you Feel you are Being Harassed

See the Resources listed in Section 4 of this Guide.

- 1. Trust your instincts.** If something makes you uncomfortable, there is a reason. Every comment or gesture may not turn into harassment, and you may want to see if it happens again.
- 2. Seek support from someone you trust.** You don't need to deal with harassment alone. ONA is here to assist you. There are persons within your Bargaining Unit who will offer support. Contact your Bargaining Unit Human Rights and Equity Representative or Bargaining Unit President. The provincial Human Rights and Equity Team is also available for support (for contact information, see Section 4: Resources).
- 3. Learn as much as you can. Know your options.** Know your workplace policies and who you can contact for information. The Bargaining Unit Human Rights and Equity Representative or Bargaining Unit President may assist you in finding the necessary information. The ONA Human Rights and Equity Team will also act as a resource. The ONA website (www.ona.org) contains links to other human rights and equity organizations that may prove valuable. There is also a list of resources contained in the back of this guide. Your employer may have a committee that can offer confidential support, such as an Employee Assistance Program. The more you know, the better you will be able to deal with your harasser, your employer and others you may need to approach.
- 4. Keep a record or journal of your experiences and what you have done to try to stop the harassment.** It is wise to use a bound book that cannot have pages added or deleted. Include:
 - Dates, times, details and gestures of your experience(s).
 - Names and telephone numbers of people who heard or saw the incident and whom you would be willing to have act as witnesses.
 - Your emotional and physical reactions at the time of the incident and afterwards.
 - Dated entries of each step you took to stop the harassment.
 - Detailed documents to show if there is a pattern of harassment. This will help you remember specific incidents.

- A note on each page that says, “prepared for my Counsel” (ONA Policy 14.10 – Union Representation in Critical Incident Meetings/ Communications).
5. **Keep anything the harasser gives you.** Letters, memos, gifts or messages you have received on your voicemail.
 6. **Keep a record of your job performance.** Copies of performance appraisals and/or notes of praise regarding your work.
 7. **Speak or write to the harasser about their behaviour and explain that you find it offensive.** Take someone with you when you speak to them or deliver a written message. The harasser will not be able to claim they were unaware that the behaviour was offensive to you. Stay calm and give the harasser an opportunity to change their behaviour. This step may result in cessation of the behaviour.
 8. **Contact** your Bargaining Unit Human Rights and Equity Representative or Bargaining Unit President to assist you in making a complaint under your employer’s workplace policy and/or to file a grievance.

Next Steps

Making a Complaint under Your Employer’s Discrimination Policy: What’s Involved

Most employers have policies prohibiting discrimination and harassment in the workplace. Most also have a complaints procedure.

It is the employer’s responsibility to provide and maintain a workplace free of discrimination and harassment and to ensure that all employees are aware that such behaviour is unacceptable. If an incident occurs, it is the employer’s duty to take steps to deal with it and prevent a reoccurrence.

ONA encourages any member who has a complaint of workplace harassment or discrimination to follow the complaints process set out in their employer’s harassment and discrimination policies and procedures.

Members may request the assistance and support of an ONA representative in dealing with harassment and discrimination issues in their workplace. For example, if you wish to remain anonymous, you may ask an ONA representative to obtain a copy of the policy for you. ONA representatives can also assist members with the complaint or reporting processes in the employer’s policy. In addition, the union can determine whether a grievance should be filed under the collective agreement (see *Filing a Grievance: What’s Involved* on page 23).

In cases where an employer has no policy or procedures regarding discrimination or harassment in the workplace, the union will determine whether a grievance should be filed under the collective agreement.

Members may also request the assistance and support of an ONA representative when they are identified as a “Respondent” in a complaint under the employer’s policy. The union will provide separate representatives for the “Complainant” and the “Respondent.”

All employers are responsible for dealing effectively, quickly and fairly with situations involving claims of harassment or discrimination. Employers must respond to internal discrimination/ harassment complaints by:

- Having a complaint mechanism in place.
- Taking the matter seriously once the internal complaint is received and acting promptly.
- Providing the complainant with a healthy work environment.

The employer’s policy should describe:

- The purpose of the policy and to whom the policy applies.
- Definition section, which includes a description of harassment and discrimination in the workplace.
- How to make a complaint and the timelines that apply.
- The process and timelines with respect to the investigation and/or mediation.
- Confidentiality requirements.
- Communicating to the complainant and respondent its actions in response to the complaint.
- The rights of the complainant and respondent and how they will be protected.
- The interim measures available, i.e., separating the parties until the investigation is over.
- What consequences and/or penalties may be imposed if there is a finding of harassment and/or discrimination.

You have many avenues of support within your Bargaining Unit. Talk to your Bargaining Unit Human Rights and Equity Representative, Bargaining Unit President or someone on the Grievance Committee. These representatives will seek advice and support from the Labour Relations Officers and other ONA staff members, as necessary.

Filing a Grievance: What’s Involved

If you feel you have been discriminated against or harassed, ONA may file a grievance on your behalf. In the interim, where reasonable, ONA may request that you not be required to work with the alleged harasser until the grievance is resolved.

Pursuing a grievance can be a time-consuming and lengthy process. You must be diligent in sticking to the strict grievance procedure time limits. It is important to speak to an ONA representative immediately, even if you have doubts about taking formal action. ONA will support you and make sure you know all your options.

In very limited circumstances, ONA may advise you to file a grievance and an application (complaint) with the Ontario Human Rights Tribunal. Generally, ONA does not assist members with the Tribunal's application process or provide representation. For more information, please ask your ONA representative to provide you with a copy of ONA's policy regarding human rights complaints.

If your complaint of harassment or discrimination is against another ONA member, ONA will provide representation by separate ONA representatives. Keep in mind that while you have the right to file a grievance, the harasser has the right to be defended by ONA in the event of excessive discipline or unjust discharge, for example. Where grievances are filed, separate ONA representatives will handle the grievances.

Steps in filing a grievance include:

- Speaking to your Local ONA representative.
- Following the steps set out for grievances in your collective agreement.

Filing an Application at the Ontario Human Rights Tribunal: What's Involved

ONA members who are waiting for their first collective agreement to be negotiated or awarded by an arbitrator do not have access to a grievance procedure. As a result, these members cannot file grievances concerning discrimination or harassment in the workplace. They can, however, enforce their rights under the *Human Rights Code* by filing an application with the Ontario Human Rights Tribunal. In accordance with its policy, ONA will consider assisting such members with their applications. Members should contact their Bargaining Unit President as soon as possible for advice.

ONA members who are covered by a collective agreement can enforce their rights under the *Human Rights Code* through the grievance procedure under the collective agreement. They can file an application with the Ontario Human Rights Tribunal, however the Tribunal may dismiss an application (in whole or in part) if it finds that another tribunal, such as an arbitration board or an arbitrator, has appropriately dealt with the substance of the human rights claim.

****As noted earlier, in most cases ONA does not assist members with the Tribunal's application process or provide representation.****

For information on filing an application with the Ontario Human Rights Tribunal, please visit the Tribunal's website at <http://www.sjto.gov.on.ca/hrto/>.

Reprisals

If you have filed an application with the Ontario Human Rights Tribunal, are involved as a witness to a complaint, or have refused to discriminate against someone, the *Code* states that there can be no retaliation against you.

If you feel that you are experiencing retaliation, contact your Bargaining Unit's Human Rights and Equity Representative or Bargaining Unit President for support and guidance on next steps.

A Human Rights Complaint against an ONA Representative or ONA Staff Member

If you have a human rights complaint against an ONA representative, including a member of your Local executive, or a member of ONA staff, refer to ONA Policy 16.28 – *Discrimination and Harassment during Union Business or Activities*.

Speak to your Local representative or Labour Relations Officer if you need further advice.

“At ONA, human rights and equity is a core value that instills the work we do on behalf of our members and for all. ONA advocates and promotes understanding, acceptance and action to address inequity, both in the workplace and in society.”

~ Vicki McKenna, ONA President ~

More than a quote, statements like the one above and ONA's commitment in 2022 to stand in solidarity with Black, Indigenous, Racialized and other historically marginalized communities led to a change. ONA embarked on an Anti-Racism Anti-Oppression journey that continues today in an effort to achieve equal treatment for all our members and achieve health equity in our system.

Section 3: Human Rights and Equity Terms

The terms and definitions used in this glossary represent our common everyday understanding and usage of these words. It is important to note that these definitions are not fixed or static. Instead, they are fluid and change over time and in different contexts. In our diverse society, the meaning and interpretations of these terms may be affected by generational and cultural differences, as well as social setting.²²

Ableism: Attitudes in society that devalue and limit the potential of persons with disabilities. People with disabilities are assumed to be less worthy of respect and consideration, less able to contribute and take part, and of less value than other people. Ableism can be conscious or unconscious and is embedded in institutions, systems or the broader culture of a society. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Aboriginal Peoples: A collective name for the original people of North America and their descendants. The Canadian Constitution (the *Constitution Act*, 1982) recognizes three groups of Aboriginal Peoples – First Nations, Métis and Inuit – as separate peoples with unique heritages, languages, cultural practices and spiritual beliefs. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Accessibility for Ontarians with Disabilities Act (AODA), 2005: The purpose of the AODA is to develop, implement and enforce accessibility standards to remove barriers for Ontarians with disabilities on or before January 1, 2025 in relation to: goods, services, facilities, accommodations, employment and buildings, structures and premises. The AODA came into effect on June 4, 2005. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Accessibility: a general term for the degree of ease that something (e.g., device, service, physical environment and information) can be accessed, used and enjoyed by persons with disabilities. The term implies conscious planning, design and/or effort to make sure something is barrier-free to persons with disabilities. Accessibility also benefits the general population, by making things more usable and practical for everyone, including older people and families with small children. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

²² Referenced from the preamble of the introduction to ONA'S Anti-Racism and Anti- Oppression Journey Glossary of Key Terms (2022), and Tomee E. Sojourner-Campbell, ARAO Consultant's research and training materials.

Accessible: does not have obstacles for people with disabilities – something that can be easily reached or obtained; facility that can be easily entered; information that is easy to access. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Adverse Effect Discrimination: Adverse effect discrimination occurs when a rule or requirement of a job that may appear neutral has an adverse effect when applied to a particular class of individuals. So, for example, workplaces with strict uniform guidelines may have an adverse impact on individuals and groups whose religion requires them to wear certain items, such as a turban, hijab or kippa. The employer is expected to accommodate the individual(s) in the group unless it can be shown that the needs of individual(s) cannot be accommodated without undue hardship.

Age: Age means 18 years or more. Mandatory retirement at age 65 is no longer permitted under Ontario laws.

Ally: refers to a person who assists others in generating inclusive, equitable, and safe spaces, often at the risk of their personal, social, professional and physical well-being. (Source: Annalee Schafranek, What's the Difference Between An Ally and Accomplice, (December 21, 2021)

<https://www.ywcaworks.org/blogs/ywca/tue-122212021-1103/what's-difference-between-ally-and-accomplice>.

Bias: A predisposition, prejudice or generalization about a group of persons based on personal characteristics or stereotypes. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Biological sex: the biological classification of people as male and/or female. A doctor usually assigns sex at birth, by visually assessing external anatomy. Sex terms are “male,” “female” and “intersex.” [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

BIPOC: Black, Indigenous, People of Colour.

Black: a social construct referring to people who have dark skin colour and/or other related racialized characteristics. The term has become less of an indicator of skin colour and more of racialized characteristics. Diverse societies apply different criteria to determine who is Black. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Black African Descent: Black people (any gender) refers to people of Black African descent, which includes those who identify as Black Africans, and those found worldwide who identify as descendants of Black African peoples. [Canadian Institutes of Health Research](#).

Colonialism is the violent historical practice of European expansion into territories already inhabited by Indigenous peoples for the purposes of capturing new lands

and removing natural resources. This expansion is rooted in acts of violent suppression of Indigenous peoples' governance, legal, social and cultural structures. Colonialism was a systematic process of forced assimilation, exclusion and degradation of Indigenous ways of life. Indigenous peoples were, and continue to be, subjected to institutional and legal policies and practices designed to force them to conform to the structures of the colonial state. (Resource: CRIAW-ICREF, Colonialism and Its Impacts, <https://www.criaw-icref.ca/wp-content/uploads/2021/04/Local-Women-Matter-3Colonialism-and-its-impacts.pdf>)

Colonialization is the action or process of settling among and establishing control over the Indigenous people of an area. (Source: University of Saskatchewan, https://teaching.usask.ca/curriculum/indigenous_voices/power-and-privilege/chapter1.php.)

Complainant: A complainant is a person who brings forward a complaint under an employer's workplace policy. When you file an application with the Ontario Human Rights Tribunal, you are identified as the "applicant."

Creed refers to "religious creed" or "religion". It is defined as a set of beliefs and confession of faith, including observances and worship. A belief in a God of gods, a single supreme being or deity is not a requisite. (Ontario Human Rights Commission, Human rights and creed, <https://www.ohrc.on.ca/en/human-rights-andcreed>)

Cultural Competence refers to when individuals use awareness, knowledge, and understanding in order to value cultural diversity and promote fairness, justice, and community confidence. (Source: American Bar Association, <https://www.americanbar.org/groups/litigation/initiatives/task-force-implicit-bias/implicitbias-toolbox/glossary/#18>)

Cultural Group refers to a group of people who consciously or unconsciously share identifiable values, norms, symbols, and some ways of living that are repeated and transmitted from one generation to another. (Source: American Bar Association, <https://www.americanbar.org/groups/litigation/initiatives/task-force-implicit-bias/implicitbias-toolbox/glossary/#19>)

Cultural Humility refers to a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural humility involves humbly acknowledging oneself as a learner when it comes to understanding another's experience. (Source: First Nations Health Authority, What Is Cultural Safety and Humility? "Creating a Climate for Change" Resources Webinar Series Promotional Materials. Online: <https://www.fnha.ca/wellness/wellness-and-the-first-nations-health-authority/culturalsafety-and-humility>)

Cultural Safety refers to an environment that is physically, socially, emotionally, and spiritually safe. There is recognition of, and respect for the cultural identities of others, without challenge or denial of an individual's identity, who they are, or what they need. Culturally unsafe environments can diminish, demean, or disempower the cultural identity and well-being of an individual. (Resource: Indigenous Nurses' Association, Cultural Competence and Cultural Safety in Nursing Education: A Framework for First Nations, Inuit and Metis Nursing.)

Direct Discrimination: This describes an act, behavior or practice of treating a person unequally. An example A nursing home supervisor feels that it is best not to hire "non-White" nurses. They believe that many of the residents in the institution are set in their beliefs and prejudices and don't want to be cared for by a racially diverse nursing group.

Disability: There are two common ways of looking at what disability is.

One way is to see a disability as a medical condition that a person has. From this perspective, disability covers a broad range and degree of conditions, some visible and some not visible. A disability may have been present from birth, caused by an accident, or developed over time. There are physical, mental, cognitive and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities and other conditions.

A newer way of looking at disability is that it is not something a person has. A person with a medical condition is not necessarily prevented (or disabled) from fully taking part in society. If society is designed to be accessible and include everyone, then people with medical conditions often don't have a problem taking part. From this point of view, disability is a problem that occurs when a person's environment is not designed to suit their abilities. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Discrimination: This is defined as treating people unfairly based on their membership in one of the groups identified as a prohibited ground under the Code. In general, discrimination is an act or practice that, intentionally or unintentionally, has the effect of imposing burdens, obligations or disadvantages on an individual or group not imposed on others, or that withholds or limits access to opportunities, benefits and advantages available to others.

Diversity refers to individual differences (e.g. life experiences, learning and working styles, personality types) and group/social differences (e.g. race, socio-economic status, class, gender, sexual orientation, country of origin, ability, intellectual traditions and perspectives, as well as cultural, political, religious, and other affiliations) that can be engaged to achieve excellence in teaching, learning, research, scholarship, and administrative and support services. (Source: The George Washington University, Diversity and Inclusion Defined, <https://diversity.gwu.edu/diversity-and-inclusiondefined>)

Duty to Accommodate: Under the Ontario *Human Rights Code*, people identified by *Code* grounds are entitled to the same opportunities and benefits as everybody else.

In some cases, they may need special arrangements or “accommodations” to take part equally in the social areas the *Code* covers, such as employment, housing and education. Employers, housing providers, education providers and other parties responsible under the *Code* have a legal obligation to accommodate *Code*-identified needs, unless they can prove it would cause them undue hardship. Undue hardship is based on cost, outside sources of funding and health and safety factors. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Equal opportunity: aims to ensure that all people have equal access, free of barriers, equal participation and equal benefit from whatever an organization has to offer. Note that equal opportunity extends beyond employment. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Equal Treatment: This refers to treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all students equal treatment in entering a building, it may be necessary to provide a ramp for a student who uses a wheelchair. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Essential Duties: These are requirements that are essential to perform a job. For example, if a nurse applies for a position in an emergency department of a hospital, it may not be essential for them to be able to use a photocopier.

Ethnicity is a social construct that divides people into smaller social groups based on characteristics such as shared sense of group membership, cultural heritage, values, and ancestral geographical base.

(Source: https://epi.washington.edu/sites/default/files/website_documents/DEI%20Glossary.)

Equitable: just or characterized by fairness or equity. Equitable treatment can at times differ from the same treatment. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Equity refers to the recognition that each person is unique, and decision makers/individuals do what they are able to do in their power to identify and eliminate unfair biases, stereotypes and/or barriers. It is also a process that applies fairness, impartiality, and even-handedness to achieve substantive equality in all aspects of a person’s life. (Source: TSC Inc. research; Kawartha Pine Ridge District School Board; and the Ontario Human Rights Commission, *Teaching Human Rights in Ontario: A Guide for Ontario Schools, Glossary of Human Rights Terms*, 2013.)

Family Status: Family status means being in a parent-child relationship. It includes an employee's obligations arising from a parent and child relationship (e.g., child care), from a child and parent relationship (e.g. elder care) and from a parent and child-type relationship that involves care, responsibility and commitment (e.g. care for an ill or elderly relative). Where a work requirement conflicts with a substantial parental obligation, an employee may be entitled to accommodation if there are no reasonable alternatives or options for resolving the conflict. See [Family status and the Ontario Human Rights Code \(fact sheet\) | Ontario Human Rights Commission \(ohrc.on.ca\)](#) for additional information.

First Nation(s)/First Nations People: This term became common use in the 1970s to replace the word "Indian." Although the term First Nation is widely used, no legal definition exists. The term has also been adopted to replace the word "band" in the naming of communities. Many people today prefer to be called "First Nations" or "First Nations People" instead of "Indians." Generally, "First Nations People" is used to describe both Status and Non-Status Indians. The term is rarely used as a synonym for "Aboriginal Peoples" because it usually does not include Inuit or Métis People. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Gender: the social classification of people as masculine and/or feminine. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Gender identity: a person's conscious sense of maleness and/or femaleness. This sense of self is separate and distinct from one's biological sex. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Harassment: Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome. Harassment under the *Ontario Human Rights Code* is based on the prohibited/protected grounds. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Harassment (Personal): Personal harassment is not based on any of the prohibited grounds in the *Human Rights Code*. It is any unwarranted conduct that is directed at and offensive to an individual, or that has the effect of creating an intimidating, humiliating, threatening or hostile union environment. You can deal with personal harassment under your collective agreement.

Historical Disadvantage: disadvantage resulting from historic patterns of institutionalized and other forms of systemic discrimination, sometimes legalized social, political, cultural, ethnic, religious and economic discrimination, as well as discrimination in employment. This also includes under-representation experienced by disadvantaged groups such as women, Aboriginal peoples, persons with

disabilities, LGBT persons and racialized people. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Homophobia: the irrational aversion to, fear or hatred of gay, lesbian or bisexual people and communities, or of behaviours stereotyped as “homosexual.” [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Human Rights Commission (Ontario) OHRC:

The OHRC works to build respect for human rights in all aspects of life in Ontario. It develop policy for preventing different forms of discrimination and work to raise awareness of human rights issues. The OHRC intervenes, as needed, at tribunals and all levels of court on human rights issues with broad public interest or concern. The OHRC works with different sectors and groups, including the Government of Ontario, to promote organizational change and to break down barriers to equity and success. [What does the Ontario Human Rights Commission \(OHRC\) do? | Ontario Human Rights Commission](#)

The OHRC does not deal with individual cases of discrimination or make legal decisions.

The Human Rights Tribunal of Ontario exercises jurisdiction under the Human Rights Code to resolve, through mediation or hearing, applications alleging a breach of the Code. The Human Rights Tribunal of Ontario is designated as part of an adjudicative tribunal cluster by regulation made under the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009. [Human Rights Tribunal of Ontario \(Tribunals Ontario\) - Public Appointments Secretariat \(gov.on.ca\)](#)

Impairment: a physical, sensory, intellectual, learning or medical condition, including mental illness, that limits functioning and/or requires accommodation. Impairment may be apparent to others or hidden, inherited, self-inflicted or acquired, and may exist alone or in combination with other impairments. Impairment can affect anyone (whatever their gender, sex, race, culture, age, religion, creed, etc.). [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Implicit Bias: (also known as unconscious bias) refers to attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favourable and unfavourable assessments, are activated involuntarily and without an individual’s awareness or intentional control. (Source: The Ohio State University Kirwan Institute.

[http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/.](http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/))

Inclusion: refers to a system and/or process where all individuals and groups are welcomed, respected, and valued. (Source: Kawartha Pine Ridge District School Board EDI definitions

<http://kprcontentlibrary.kprdsb.ca:8080/docushare/dsweb/Get/Rendition13691/unknown.>)

Inclusive Design: Taking into account differences among individuals and groups when designing something, to avoid creating barriers. Inclusive design can apply to systems, facilities, programs, policies, services, education, etc. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Indian: This term is used to identify people the Government of Canada recognizes as having Indian status – people who have an identifiable band, who live or were born on a reserve, and/or who are recognized under a complex set of rules under the *Indian Act (1985)*. The term does not include Inuit or Métis Peoples. There are three categories of Indians in Canada: Status Indians, Non-Status Indians, and Treaty Indians. **Note:** The term “Indian” is considered outdated by many people and “First Nation(s)” is typically used instead. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Indian Act: Canadian legislation first passed in 1876 and amended several times since, most recently in 1985. It sets out certain federal government obligations and regulates the management of reserve lands, Indian monies and other resources. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Indian Status: A person’s legal status as an “Indian” as defined by the *Indian Act* (see Indian in “First Nation(s)/First Nations People” definition above). [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Indigenous: Generally used in the international context, refers to peoples who are original to a particular land or territory. This term is very similar to “Aboriginal” and has a positive connotation. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Intersex: People born with unidentified or misidentified genitals. Formerly inappropriately referred to as hermaphrodites, intersex people are not easily categorized as “male” or “female” because of ambiguous genitals. Most intersex people do not possess “both” sets of genitals, rather a blending, or a different appearance that is medically difficult to categorize for many doctors. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Intersectionality is the way in which people’s lives are shaped by their multiple and overlapping identities (e.g., race, religion, ethnic origin, gender, sexual orientation, age, disabilities or citizenship and immigration status) and social locations, which, together, can produce a unique and distinct experience for that

individual or group, for example, creating additional barriers, opportunities, and/or power imbalances. The term was first coined by African American legal scholar, Kimberlé Crenshaw. (Source: Ontario government <https://www.ontario.ca/document/data-standards-identification-andmonitoring-systemic-racism/glossary>)

Intersectional Forms of Racism refers to the multiple and simultaneous ways different forms of oppression (e.g., racism, sexism, ableism, classism, transphobia) intersect with the lived experiences of individuals from Indigenous, Black, Asian, South Asian, racialized and marginalized communities.²³

Inuit: The Aboriginal Peoples of Arctic Canada who live primarily in Nunavut, the Northwest Territories and northern parts of Labrador and Québec. The word Inuit means “people” in the Inuit language – Inuktitut. The singular of Inuit is Inuk. Their traditional languages, customs and cultures are distinctly different from those of the First Nations and Métis. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

(2SLGBTQI).²⁴ Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex Members.

Métis: French term meaning “mixed blood.” The Canadian Constitution recognizes Métis people as one of the three Aboriginal Peoples. The term is used broadly to describe people with mixed First Nations and European ancestry who identify themselves as Métis, distinct from First Nations people, Inuit or non-Aboriginal People.

#MeToo: A global movement of women and survivors of sexual misconduct speaking out about sexual violence and working to change the culture to promote women’s equality, ensure that men and women understand and comply with consent, and hold sexual abusers accountable for their wrongdoing. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Microaggression refers to a comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group. (Source: Merriam-Webster Dictionary <https://www.merriamwebster.com/dictionary/microaggression>.)

²³ This definition draws on the definition of intersectional forms of anti-Black racism developed by Tomee Sojourner-Campbell. Online: <<https://www.linkedin.com/pulse/definition-intersectional-forms-anti-black-racism-sojourner-campbell/>>

²⁴ Acronym used by Egale Canada as of 2019 based on a national survey they conducted. See <https://egale.ca/about/>. Note that these acronyms evolve over time and some terms can be used interchangeably. For example, “Q” can be interpreted to mean queer or questioning. “T” can be interpreted as transgender or transitioning.

Multiracial: a person whose heritage includes members of multiple racial groups. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Pay Equity: The principle of equal pay for work of equal value. For example, the requirement to pay males and females within the same organization the same salary for work that is judged to be of equal value. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Person/people of colour: an inclusive term that encompasses a wide range of social identity groups, including Asians, Aboriginal Peoples, Latinas/Latinos and Blacks. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Poisoned Work Environment A negative, hostile or unpleasant workplace due to comments or conduct that tend to demean a group identified by one or more prohibited grounds under the *Code*, even if not directed at a specific individual. A poisoned work environment may result from a serious single event, remark or action. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Power refers to an individual’s ability to influence decisions that impact the outcomes of individuals, groups and/or communities. (Source: Dartmouth University, Introduction to Power, Privilege, and Social Justice.)

Prejudice: Negative prejudgment or preconceived feelings or notions about another person or group of persons based on perceived characteristics. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Pride: (when used in reference to the LGBT community): not being ashamed of oneself and/or showing your pride to others by “coming out,” marching in the Pride parade, etc., being honest and comfortable about who you are. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Privilege refers to unearned power, access to power, and advantages given to members of groups who are considered dominant in society.²⁵

Prohibited/Protected Grounds: the Ontario *Human Rights Code* prohibits discrimination or harassment based on these personal characteristics. The specific protected grounds include: age, ancestry, citizenship, colour, creed, disability, ethnic origin, family status, gender identity and gender expression (recently added to the *Code*), marital status, place of origin, race, sex (including pregnancy), sexual orientation, receipt of public assistance (in housing) and record of offences

²⁵ The Durham District School Board’s Addressing Anti-Black Racism & Its Impact: Well-Being Toolkit for Families. Online: <https://www.ddsb.ca/en/family-and-community-support/resources/Documents/Your-Well-Being-Matters/Anti-Black-RacismToolkit.pdf>. 6

(in employment). [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Queer: formerly derogatory slang term used to identify LGBT people. Some members of the LGBT community have embraced and reinvented this term as a positive and proud political identifier when speaking among and about themselves. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Questioning: exploring one's own sexual and/or gender identity, looking at such things as upbringing, expectations from others (family, friends, church, employers, etc.) and inner motivation. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Race: There is no such thing as race – instead, it is a “social construct.” This means that society forms ideas of race based on geographic, historical, political, economic, social and cultural factors, as well as physical traits, even though none of these can legitimately be used to classify groups of people. See Racialization. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Racialization: The process by which societies construct races as real, different and unequal in ways that matter and affect economic, political and social life. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Racialized Individuals can have racial meanings attributed to them in ways that negatively impact their social, political, and economic life. This includes but is not limited to people classified as “visible minorities” under the Canadian census and may include people impacted by antisemitism and Islamophobia. (Resource: Ontario Human Rights Commission, Human Rights at Work, Grounds of discrimination: definitions and scope of protection section, (2008) <https://www.ohrc.on.ca/en/iii-principles-and-concepts/3grounds-discrimination-definitions-and-scope-protection>)

Racial Profiling: any action that relies on stereotypes about race, colour, ethnicity, ancestry, religion or place of origin, or a combination of these, rather than on a reasonable suspicion to single out a person for greater scrutiny or different treatment. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Racial Trauma is the experience of psychological symptoms (e.g., anxiety, depression, disassociation, or hypervigilance) that arise from racist incidents or repeated exposure to racism or discrimination.²⁶

Racism: A belief that one group is superior or inferior to others. Racism can be openly displayed in racial jokes, slurs or hate crimes. It can also be more deeply rooted in attitudes, values and stereotypical beliefs. In some cases, people don't even realize they have these beliefs. Instead, they are assumptions that have evolved over time and have become part of systems and institutions. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Reconciliation: This refers to establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal Peoples in this country. For that to happen, there has to be awareness of the past, an acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behaviour.

Respondent: A respondent is a person, group or institution against whom a complaint is being made.

Sexism: Discrimination based on sex. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Sexual Orientation the direction of one's sexual interest or attraction. It is a personal characteristic that forms part of who you are. It covers the range of human sexuality from lesbian and gay, to bisexual and heterosexual. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Status Indian: a person recognized by the federal government as being registered under the *Indian Act* is referred to as a Registered Indian (commonly referred to as a Status Indian) [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Stereotype: incorrect assumption based on things like race, colour, ethnic origin, place of origin, religion, etc. Stereotyping typically involves attributing the same characteristics to all members of a group regardless of their individual differences. It is often based on misconceptions, incomplete information and/or false generalizations. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Straight: people whose enduring physical, romantic and/or emotional attraction is to people of the opposite sex. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

²⁶ The Durham District School Board's Addressing Anti-Black Racism & Its Impact: Well-Being Toolkit for Families, p.6.

Social Determinants of Health refers to the conditions that individuals experience throughout their lifetime, from racism, income disparities, under/unemployment, education, housing, and other key determinants of health outcomes. (Source: The Black Health Alliance, Social Determinants of Health, <https://blackhealthalliance.ca/home/social-determinants-health/>)

Systemic Discrimination: patterns of behaviour, policies or practices that are part of the social or administrative structures of an organization, and which create or perpetuate a position of relative disadvantage for groups identified under the *Human Rights Code*. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Transgender or Trans: a person whose biological sex assigned at birth does not match their gender identity. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Transsexual: People who are identified at birth as one sex, but who identify themselves differently. They may seek or undergo one or more medical treatments to align their bodies with their internally felt identity, such as hormone therapy, sex-reassignment surgery or other procedures. While this term is embraced by some people as an identity, it is rejected by others and should be used with caution. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

West Indian: a person from the West Indies or of West Indian descent from countries such as Barbados, Grenada, Guyana, Jamaica and Trinidad & Tobago. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Two-Spirit: According to ancient teachings, “two-spirited” people were considered gifted among all beings because they carried two spirits: that of male and female. It is told that women engaged in tribal warfare and married other women as there were men who married other men. These individuals were looked upon as a third gender in many cases, and in almost all cultures they were honoured and revered. Today, the term refers to Aboriginal People who are gay, lesbian, bisexual, transgendered, other gendered, third/fourth gendered individuals that walk carefully between the worlds and between the genders. [Appendix 1: Glossary of human rights terms | Ontario Human Rights Commission \(ohrc.on.ca\)](#)

Undue Hardship: Undue hardship is the measure that is used to assess whether an employer is required to accommodate an employee. Undue hardship would be incurred by an employer if the required accommodation of an employee threatened the organization’s financial ability to continue to perform its business or posed an unreasonable safety threat to others. Outside sources of funding for accommodation must be explored by the organization’s ability to continue.

Arbitrators assess whether there is undue hardship on an employer on a case-by-case basis with consideration of the following non-exhaustive factors:

- Financial cost.
- Health and safety.
- Disruption of the collective agreement.
- Legitimate operational requirements of a workplace.
- Interchangeability and size of an employer's operation.

Whiteness is defined as a system where 'White' cultures are centered as the primary culture upon which society's practices and institutions are shaped. It is also a process where the practices, values, and beliefs of individuals and groups perceived to be White are referred to as the 'dominant' culture that sets the norms. (Source: Tomee Sojourner Consulting Inc.'s training materials and Calgary Anti-Racism Education, <https://www.aclrc.com/whiteness>)

White Privilege is the unearned and often unwritten social and economic advantages given to diverse groups of white people by virtue of their race. Merriam-Webster online dictionary <https://www.merriam-webster.com/dictionary/white%20privilege>

Workplace: Workplace is often defined as any location in which activities related to the mandate of the organization are performed. It is not confined to the physical space in which work typically takes place. Some harassment policies extend the definition of workplace to social gatherings of employees (such as office parties).

References:

1. Canadian Indigenous Nurses Association, <https://indigenousnurses.ca/resources/publications>
2. Tomee Sojourner Consulting Inc.'s training and EDI resource materials.
3. Ontario Human Rights Commission, <https://www.ohrc.on.ca/en>

Section 4: Resources

The resources below can be found on ONA's website at www.ona.org/guides:

- Occupational Health and Safety: A Guide for ONA Members.
- Workplace Violence and Harassment: A Guide for ONA Members.
- ONA's Anti-Racism and Anti-Oppression (ARAO) Education Series – e-Learning
- Beyond Good Intentions – e-Learning
- Demystifying Microaggressions and Decolonizing our Language – e-Learning
- Tip sheet: Microaggressions
- ARAO Toolkit - AccessONA

The resources below can be found on the ONA website, executive section. Log in and visit the “Policies, Guides and Guidelines” tab to access them:

- Accommodation and Return to Work: A Guide for ONA Leaders.
- Attendance Management Programs: A Guide for ONA Leaders.

Human Rights and Equity Team

For further information on ONA's Human Rights and Equity Team, visit the Human Rights and Equity section of the ONA website at www.ona.org/hre.

By email: hreintake@ona.org

Anti-Racism Advisory Team

For further information on ONA's Anti-Racism Advisory Team, visit the Human Rights and Equity section of the ONA website at www.ona.org/hre.

By email: anti-racismadvisoryteam@ona.org

Bursaries

ONA is dedicated to providing an environment conducive to learning and personal growth within the union with the acknowledgement of diversity and creativity. The Board of Directors has established The Bursary Fund in order to provide the following annual bursaries for membership who are active in the union:

1. “ONA Glenna Rowsell Bursary” to recognize the time and energy spent by ONA members in the pursuit of labour education to improve working conditions and quality of worklife.
2. “ONA Steven Lobsinger Human Rights and Equity Education Bursary” to assist members who wish to participate in education or outreach to improve human rights and/or equity in the workplace.
3. “ONA Occupational Health and Safety Bursary” to provide access to additional education for members to improve occupational health and safety in the workplace.

Note: These bursaries are for education other than those sponsored or delivered by ONA.

Helpful information is also available on the Human Rights Commission website at <http://www.ohrc.on.ca/en>.

A limited number of ONA bursaries are available for those looking for external education support. For further information and application instructions, please refer to the *ONA Policy Manual* (available on ONA's website) for the *ONA Bursaries Policy*.