

Discrimination and People Who Use Mental Health Services and Supports

This fact sheet is meant to assist you if you use or have used mental health services and supports from a family doctor, nurse, psychiatrist, psychologist or a similar person. It is also useful to you if:

- You have been asked to leave a restaurant or another business because of behaviour related to your mental health;
- You have not been hired because of your mental health history, or a boss did not give you a promotion because of your mental health history;
- You have been harassed at work by coworkers because of your psychiatric disability;
- A landlord has refused to rent to you because of your mental health history;
- The government - including the federal government, the province or the city that you live in - treats you unfairly because of your psychiatric disability;
- A law or government policy treats you unfairly because of your psychiatric disability;
- You have been treated unfairly because someone thinks that you have a mental health issue, even if you don't have one or aren't experiencing symptoms right now; or
- Any other similar situations.

It is important to know that having a mental health issue is a kind of disability and that you have the same rights as persons with any other kind of disability.

You cannot be discriminated against or harassed because of your mental health issues.

You cannot be discriminated against or harassed because you are or once were a patient in a psychiatric ward or a hospital.

Most of this information is useful to people who live in Ontario.

WHAT IS DISCRIMINATION?

This fact sheet is about your human rights. Knowing your rights will help you to protect yourself and others from discrimination and harassment.

Discrimination means being treated unfairly and differently because of your race, sex, marital status, place of origin, age or disability, for example. When someone treats you unfairly, or if you are not given the same opportunities as others because of your disability or race, for example, you are being discriminated against. For instance, if your boss fires you because of your race or disability, your boss is discriminating against you.

Harassment is also a kind of discrimination. It includes actions, comments or insults that put you down or offend you. These comments may be based on race, sex, citizenship, religion, disability or other important parts of your identity. Harassment also occurs when someone says something that they know is unwelcome and it makes you feel uncomfortable. Examples of harassment are when someone:

- makes racial slurs or jokes;
- insults you because of your psychiatric disability;
- shows cartoons or pictures that put down members of a race or religion; or
- calls you names because of your race, colour, or disability.

ONTARIO HUMAN RIGHTS CODE

The Ontario *Human Rights Code* is a provincial law that states that everyone in Ontario is to have equal rights and opportunities without discrimination. The *Code* is supposed to protect you from discrimination and harassment because of your race, colour, sex, disability, age and so on. "Disability" includes mental disability and most people who use mental health services and supports.

You have the right to be free from discrimination and harassment in shops, restaurants, transit, hospitals, schools, insurance, housing, contracts, employment, and membership in unions. For example,

- Workers with disabilities have the same opportunities and benefits as people without disabilities. Sometimes, workers with disabilities might need employers to make changes to their workplace to help them meet their job duties.
- Customers with disabilities also have the right to equal treatment and equal access to restaurants, shops, hotels, and movie theatres, apartment buildings, transit and other public places. Schools also need to make sure that they are accessible to students with disabilities.
- Landlords cannot refuse to rent to you because of your race, sex, age, colour, disability and so on. You can call the Centre for Equality Rights in Accommodation (416-944-0087) for more information.

If you have questions about any of your rights or responsibilities under the *Code* you may contact ARCH for free legal information and advice.

If you feel that someone like a boss, landlord or a service provider has treated you differently and unfairly because of your mental health disability, then you may be able to file an application with the Human Rights Tribunal of Ontario. Applications to the Tribunal must usually be filed within one year of when you were treated unfairly, but it may be possible to make an application after one year.

For more information and details about how to file a human rights application, please contact the Tribunal:

Human Rights Tribunal of Ontario
655 Bay Street, 14th Floor
Toronto, ON M7A 2A3

Local Telephone Inquiry: (416) 326-1312
Toll-Free Telephone Inquiry: 1-866-598-0322
TTY (Local): (416) 326-2027
TTY (Toll Free): 1-866-607-1240
Web site: www.hrto.ca

The Human Rights Legal Support Centre can give people independent legal advice about filing an application and legal advice and representation after an application has been filed. For more information about the Human Rights Legal Support Centre's services, please contact the Centre:

Human Rights Legal Support Centre
400 University Avenue, 7th Floor
Toronto, ON

Local Telephone Inquiry: (416) 314-6266
Toll-Free Telephone Inquiry: 1-866-625-5179
TTY: (416) 314-6651
TTY (Toll Free): 1-866-612-8627
Web site: www.hrlsc.on.ca

CANADIAN HUMAN RIGHTS ACT

The *Canadian Human Rights Act* is supposed to stop discrimination by federal employers or service providers like banks, airlines, t.v. and radio stations, telephone companies, railways and mining operations.

It is against the law for a federal employer or service provider to discriminate or harass you because of your race, colour, sex, disability, age and so on. "Disability" includes mental disability and people who use mental health services and supports.

You can file a human rights complaint with the Canadian Human Rights Commission within one year. To file a complaint, contact the Commission by telephone, fax or mail.

Canadian Human Rights Commission
344 Slater Street, 8th Floor
Ottawa, Ontario K1A 1E1
Telephone: (613) 995-1151
Toll Free: 1-888-214-1090
TTY: 1-888-643-3304
Fax: (613) 996-9661
Website: <http://www.chrc-ccdp.ca/>

You can file a complaint with the Canadian Human Rights Commission only against a federal employer or service provider. If your complaint is against a store, a restaurant, a hotel, hospitals, health care provider, school, college or university, you should make a complaint to your provincial human rights commission. The provinces and territories have similar laws against discrimination.

CHARTER OF RIGHTS AND FREEDOMS

You have certain rights which are protected under the *Charter of Rights and Freedoms*. The *Charter* is part of the constitution, which is the “supreme law” of Canada. The *Charter* protects people from discrimination by laws and government actions. It gives everyone the same benefits and the same protection of the law without being discriminated against because of your race, age, sex, disability and so on. A “disability” includes mental health issues.

Governments are bound by the *Charter* when they are making laws. Courts must consider the *Charter* in court cases. If a law or government action violates the *Charter*, we can ask a court to strike down those laws.

The *Charter* only applies to laws and government actions. If a private business is discriminating against you, you should call your provincial or territorial human rights commission.

To prove that you have been discriminated against, you must show:

- You were treated differently from others;
- The different treatment was because of race, religion, sex, age, disability and so on.
- The different treatment makes it seem as though the person does not deserve the same respect as other people.

Even if you can't prove that you have been discriminated against, the law can still be good under the *Charter* if the treatment is “reasonable and understandable in a free and democratic society”.

If you think that a law or government is not respecting your *Charter* rights, you can take the government to court. This is a big step. Before going to court, it is important that you think about the benefits and possible consequences. For instance, legal fees can be very expensive. It can also take a very long time. You will likely want to work with others who are interested in the issue. Many different organizations are involved in Charter challenges including the ARCH Disability Law Centre.

OTHER PROTECTIONS

Some workplaces have **anti-discrimination policies**. If you are unionized, you can contact your Union Steward for more information. Some hospitals have discrimination policies. Ask your patient representatives or ward staff for information about the rules in your hospital.

You can also get advice on your human rights from a **community legal clinic**. Community legal clinics provide legal services to low-income people and communities. Call 416-979-1446 to find the community legal clinic that is closest to you. Also, the **Community Legal Aid Services Program (CLASP)** at York University provides service to people with mental health issues. You can contact them at 416-736-5029.

It is important that you talk to a lawyer before starting a court case. There might be time limits that mean that you have to start a court case very soon after you have been discriminated against. If you wish to hire an Ontario lawyer, you can call the **Lawyer Referral Service** run by the Law Society of Upper Canada. The Lawyer Referral Service will provide a name of a lawyer who practices in the area of discrimination and human rights, and will provide a half-hour free consultation. The telephone number for the service is 1-800-268-8326 or 416-947-3330 (within the GTA).

ABOUT ARCH

ARCH Disability Law Centre is a specialty legal aid clinic dedicated to defending and advancing the equality rights of people with disabilities, including people with mental health issues.

ARCH provides free, confidential, basic legal information to people with disabilities including information about discrimination. ARCH provides this service over the phone. If, because of your disability, you cannot speak with us over the phone, we will try to communicate with you in a way that meets your needs.

425 Bloor Street East, Suite 110
Toronto, Ontario, M4W 3R5
Tel 416-482-8255
Toll-free 1-866-482-2724
TTY 416-482-1254
Toll-free 1-866-482-2728
Fax 416-482-2981
Toll-free 1-866-881-2723
www.archdisabilitylaw.ca