

## ***An Educator's Guide to Human Rights*** Second Edition

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Ontario society has become increasingly litigious in its efforts to resolve its issues with employers and institutions. We have seen a rise in complaints to the Human Rights Tribunal by members of the community and employees of school boards as they seek to have their issues resolved.

As we begin another school year, the arrival of the second edition of *An Educator's Guide to Human Rights* is timely for administrators. Co-authors Brenda Bowlby and Daniel Michaluk

are lawyers in the Toronto law firm, Hicks Morley LLP. Jennifer Wootton is a former colleague who is currently a sole practitioner assisting workplace parties to resolve differences constructively. Their revisions reflect the impact of a number of significant human rights cases since the release of the first edition, as well as new laws that have been implemented by provincial governments in Canada. The book is primarily focused on Ontario but has relevance for educators across the country.

School administrators are busy people who need information that is concise and gets to the heart of the matter quickly. This book does just that. It is divided into 16 chapters, all short with many subheadings. The reader is able to locate information quickly using the index or the table of content. The language is clear and easy to understand. This is not a book full of legal jargon that only a law expert can decipher. It offers good advice on how to deal with the issues school boards and their school administrators face when dealing with human rights.

In an effort to expedite human rights issues, Ontario moved to a *direct-access* enforcement model in 2008. The Tribunal attempts to clear cases from its docket in less than one year. The change in models also means that anyone who believes their human rights have been violated can apply directly to the Human Rights Tribunal of Ontario and ask for a ruling on their issue. The complaint is not subjected to an investigation and can move directly to a hearing unless resolved beforehand through mediation or a preliminary motion. The Human Rights Tribunal in Ontario is described in

Chapter 8, as the authors detail what happens when you receive a legal claim. While the board is usually named in the claim, principals may also be included as a respondent especially if the issue has to do with discrimination or harassment.

Students and parents as well as employees are entitled to make human rights complaints against school boards if they believe that the treatment they have received is discriminatory based on one of the protected personal characteristics outlined in the legislation.

*Protection is extended to the personal characteristics of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status and disability. (page 13)*

Throughout the book, the authors remind the reader that these personal characteristics need to be taken into consideration when dealing with employment issues, disciplinary issues both employee and student-related, and special education. The duty to accommodate is addressed in most chapters, noting however that there are times when accommodations could create *undue hardship* on the board. It is important that the board and its agents always seek remedies in good faith.

It is noted in Chapter 7 that school boards are legally responsible for creating and sustaining a discrimination-free school environment. However, the authors feel education legislation is broad enough to impose this duty of care on principals to ensure that their schools are free of discrimination and harassment. To be proactive in this regard, school administrators need to make sure that they educate all members of their school communities on the rights of all individuals to be free of discrimination and harassment. Policies should be easily accessible to staff and students. School administrators also need to understand the board's complaint procedure and educate their school communities on the process. Likewise the board needs to provide appropriate training for those individuals who will be responsible for investigating complaints and for those who act as advisors in the complaint process.

Chapters 15 and 16 deal directly with school issues regarding special needs students and student discipline. In both cases, putting the needs of the child first is the main priority in determining outcomes. The need for accommodations and case-by-case reviews are important to developing an atmosphere of good faith in trying to reach solutions to issues dealing with special needs, discrimination or harassment.

By being informed about human rights legislation, methods to address discrimination and harassment based on personal characteristics, and acting in good faith when addressing these issues, school administrators can feel confident in their duties to comply with human rights legislation. This guide helps.

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*An Educator's Guide to Human Rights* is available through Canada Law Book – ISBN 978-0-88804-485-3