

Legislation Concerning the Hiring and Retention of People with Barriers to Employment: A Guide for Employers

“Human Rights Legislation”

The purpose of human rights legislation is to ensure that people have the ability to live and work in Canada without being hindered by discrimination. Human rights legislation provides protection, procedures and remedies for people who have experienced discrimination.

The legislation is enforced through federal and provincial human rights tribunals. Human rights complaints are filed directly to the appropriate tribunal. (The B.C. Human Rights Coalition and the Canadian Commission for Human Rights are organizations that help the public understand and abide by the legislation.)

Defining discrimination

Discrimination can be defined as the denial of opportunity to a person or group of people based on a group characteristic such as race, colour, religious belief or sexual orientation.

Discrimination can take the form of harassment, unequal pay for the same or substantially similar work, discriminatory publications or hate propaganda, or, simply, differential treatment.

B.C.’s Human Rights Code and the Canadian Human Rights Act are the most relevant legislation for efforts to increase the hiring and retention of people with barriers to employment. These laws provide a legal requirement for employers to accommodate a person’s needs if they are considered to be a “protected ground.”

Under B.C.'s Human Rights Code and the Canadian Human Rights Act, grounds protected in the area of employment are:

- race
- national or ethnic origin
- colour
- religion
- age
- sex
- sexual orientation
- marital status and family status
- disability
- conviction for an offence for which a pardon has been granted (Canadian Human Rights Act)
- conviction for an unrelated offence or summary charge (Human Rights Code).

It is important to note that "disability" includes both mental and physical disabilities, which can be temporary or permanent, result from all major illnesses or diseases, and be visible or non-visible. In B.C., disability includes addictions and obesity.

Which legislation applies to you?

Employers regulated by the federal government and governed by the Canadian Human Rights Act include:

the federal government and all its agencies, such as the RCMP, the Employment Insurance Commission, or Canada Post
telecommunications bodies regulated by the CRTC
all inter-provincial transportation, such as Air Canada and Via Rail
chartered banks (but not credit unions)
unions attached to any of these.

B.C.'s Human Rights Code applies to employers, service providers and all other provincially regulated businesses and agencies, as well as to the purchase of property and rental accommodations. Provincially regulated areas include:

- all provincial, local and municipal government departments, services and programs
- schools and universities

- hospitals and medical clinics
- all private businesses and services, such as stores, restaurants and movie theatres
- credit unions
- non-profit organizations and some of the services they provide
- rental accommodations, including hotels and rental property, and
- the purchase of either residential or commercial property.

Background: The Labour Market Dialogues

The Labour Market Dialogues is a project of the Community Council, designed to explore ways in which employers in the Capital Region can be better supported in hiring and retaining people who are experiencing barriers to employment.

Phase 1 of the project, which took place in 2006, involved more than 110 interviews with employers, employees and potential employees and representatives from community service agencies. Participants identified more than 1,700 barriers to employment, 1,000 existing supports for people facing barriers, and 200 ideas for addressing the gaps.

The issues identified in Phase 1 were used to design Phase 2 of the project, which took place between March 2007 and February 2008. A group of 30 employers, service providers and other members of the community, including people with barriers to employment, chose two strategies for hiring and retaining people with barriers to employment that could most benefit both employers and employees: helping employers support people in transition to employment and offering flexible schedules. The Labour Market Dialogues then undertook three outreach activities built around these two strategies, to engage employers.

Phase 3 builds on the work of Phases 1 and 2, identifying and communicating positive and innovative practices used by local employers in successfully hiring and retaining people who have transition and scheduling barriers to employment.

Defining *barriers to employment*

In the Labour Market Dialogues project, *barriers to employment* means issues that present people with obstacles to finding and keeping work. Barriers include (but are not limited to):

- being homeless
- having substance abuse issues
- having mental and physical health problems
- having a low level of life skills
- having a criminal record
- lacking work history
- being a sex worker
- having a history of violence and abuse
- being new to Canada
- not speaking English
- being a single parent
- discrimination
- illiteracy
- poverty.

Most people experiencing barriers in one of these areas also experience barriers in at least one other area.

About this guide

Over the course of the Labour Market Dialogues, it has become clear that employers need information about the various provincial and federal laws that can affect their efforts to increase the hiring and retention of employees who face barriers to employment. The Community Council has produced *Legislation Affecting the Hiring and Retention of People with Barriers to Employment: A Guide for Employers* to help meet this need.

The guide provides basic information about five provincial and federal laws, whom they apply to, and their implications for more inclusive hiring and retention practices. The five laws are shown in the table below, along with their jurisdiction (federal or provincial), purpose, and the agency or program that is responsible for ensuring compliance. There is also a brief section on the role of unions.

A list of websites is provided at the back of the full version of this guide (see www.communitycouncil.ca/activities.php#lmd), in case you need more information about the legislation or the agencies associated with it.


Legislation	Jurisdiction	Purpose	Compliance
Human Rights Code	Provincial	Protection from discrimination	B.C. Human Rights Tribunal
Canadian Human Rights Act	Federal	Protection from discrimination	Canadian Human Rights Tribunal
Employment Standards Act	Provincial	Establishes minimum working standards	Employment Standards Branch
Canadian Labour Code	Federal	Establishes minimum working standards	HRSDC Labour Program
Employment Equity Act	Federal	Ensures employment equity through removal of barriers and numerical representation for designated groups	Legislated Employment Equity Program (LEEP) and Federal Contractors Program (FCP)

How to Contact Us

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