

## FACT SHEET: Religion (Creed), Human Rights & the Duty to Accommodate

Under the Ontario *Human Rights Code*, discrimination because of religion (creed) is against the law. Everyone should have access to the same opportunities and benefits, and be treated with equal dignity and respect, regardless of their religion.

It is the OHRC's position that every person has the right to be free from discriminatory or harassing behaviour that is based on religion or which arises because the person who is the target of the behaviour does not share the same faith. This principle extends to situations where the person who is the target of such behaviour has no religious beliefs whatsoever, including atheists and agnostics who may, in these circumstances, benefit from the protection set out in the *Code*.

Religion (Creed) includes the practices, beliefs and observances that are part of a faith or religion. It does *not* include secular, moral or ethical beliefs or political convictions. This policy does not extend to religions that incite hatred or violence against other individuals or groups, or to practices and observances that purport to have a religious basis but which contravene international human rights standards or criminal law.

### **Discrimination and Harassment based on Religion (Creed)**

Creed is not a defined term in the *Code*. The OHRC has adopted the following definition of creed:

*Creed is interpreted to mean "religious creed" or "religion." It is defined as a professed system and confession of faith, including both beliefs and observances or worship. A belief in a God or gods, or a single supreme being or deity is not a requisite.*

*Religion is broadly accepted by the OHRC to include, for example, non-deistic bodies of faith, such as the spiritual faiths/practices of aboriginal cultures, as well as bona fide newer religions (assessed on a case by case basis).*

*The existence of religious beliefs and practices are both necessary and sufficient to the meaning of creed, if the beliefs and practices are sincerely held and/or observed.*

Discrimination because of creed includes any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect the nullification or impairment of the recognition of human rights and fundamental freedoms on an equal basis.<sup>12</sup>

Harassment on the grounds of creed is a form of discrimination. It involves conduct or comments concerning religious beliefs or practices which are known or ought to be known to be offensive. A single incident may constitute "harassment" and may create a poisoned environment if it is substantial or significant enough.

### The Duty to Accommodate

The *Code* provides the right to be free from discrimination, and there is a general corresponding duty to protect this right: the “duty to accommodate.” The duty arises when a person's religious beliefs conflict with a requirement, qualification or practice. The *Code* imposes a duty to accommodate based on the needs of the group of which the person making the request is a member. Accommodation may modify a rule or make an exception to all or part of it for the person requesting accommodation.

The duty to accommodate is limited to those steps that may be required to accommodate, short of undue hardship. The burden of proving undue hardship lies with the person responsible for providing the accommodation. Each option should be examined to decide whether undue hardship will result.

Undue hardship is a relative concept. Accommodation may cause undue hardship to one employer but not to another. It is also possible that a method of accommodation which does not cause undue hardship to an employer now may cause undue hardship in the future. This may happen as circumstances change; for example, the number of employees requesting accommodation may increase significantly. Therefore, it is important to take into consideration all the relevant factors when attempting to determine when the standard of undue hardship is met.

Both the people responsible for providing the accommodation and the person requesting it have rights and responsibilities during accommodation.

For example:

- Person requesting: Take the initiative to request accommodation
- Person responsible: Respect the dignity of the person seeking accommodation.

### Special Cases: Head Covering

Workplaces, services and facilities frequently have rules about dress. These rules may come into direct conflict with religious dress requirements. When they do, there is a duty to accommodate the person, short of undue hardship.

**Example:** A school requires its students to wear a particular uniform which prohibits any head covering. A Muslim girl wears a head covering as part of her religious observance. The school authorities have a duty to accommodate such a student and to permit her to wear the head covering.

#### Source:

The information in this fact sheet has been developed by the Ontario Human Rights Commission, and can be found at the following web site [http://www.ohrc.on.ca/en/issues/religious\\_rights](http://www.ohrc.on.ca/en/issues/religious_rights).

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