



FAMILY STATUS

YOUR RIGHTS & RESPONSIBILITIES

Ontario's Human Rights Code

The Ontario *Human Rights Code* (“the *Code*”) upholds the inherent dignity and worth of every person and provides for equal rights and opportunities without discrimination or harassment on the basis of family status in the areas of employment, housing, services, facilities, goods, contracts, and membership in trade and vocational associations. The aim is to create a climate of understanding and mutual respect so that each person feels a part of the community and able to contribute to it.

What is Family Status?

The Ontario *Human Rights Code* protects specific familial relationships from discrimination through the grounds of marital and family status. The *Code* defines “family status” as “being in a parent and child relationship.” This can also mean a parent and child “type” of relationship, embracing a range of circumstances without blood or adoptive ties but with similar relationships of care, responsibility and commitment. Examples include parents caring for children (also by adoption, fostering and step parenting), adults caring for aging parents or relatives with disabilities, and families headed by lesbian, gay, bisexual or transgendered persons.

Preventing Discrimination

Employers, service providers, landlords and the public need to recognize the significant human rights issues around family care relationships so they can prevent discrimination and accommodate individuals accordingly.

A lack of recognition and support for caregiving can often leave caregivers at a significant disadvantage in accessing housing, employment or services. This has a particular impact on women, who provide the majority of caregiving in

our society, and on low-income families, who may have tenuous workplace security or difficulty affording private caregiving services or much choice in rental housing. But ultimately, everyone will need to give or receive care at some point, and will rely on others to fairly accommodate their family status rights.

Caregivers are protected from discrimination and harassment related to other *Code* grounds, including disability, marital status, gender (sex, pregnancy, breastfeeding, gender identity), sexual orientation, race, colour, ancestry, religion, age and receipt of social assistance (in housing). This protection extends to the caregiver even if only by their association (relationship or other dealings) with a person identified by one of these grounds.

A lone mother who cannot find housing because landlords will not rent to single women with children; a parent of a child with a disability who loses his job because his employer refuses to provide a flexible work schedule; a woman denied a promotion because her employer believes mothers aren't sufficiently committed to their work - all pose significant family status human rights concerns. So do a dual-custody child who needs a flexible school bus service; a large immigrant family facing racial barriers to housing; a young family receiving social assistance turned down for housing on either basis; a gay or lesbian caregiver wishing to visit a partner's child or parent in hospital or take a leave of absence from work to care for that person.

Employment and Family Status

Persons in a parent-child type relationship have a right to equal treatment in the workplace. Employers cannot discriminate in hiring, promotion, training, benefits, workplace conditions or termination because a person

is caring for a family member.

Employment decisions should not be influenced by stereotypes about caregivers. Those who provide family care, or are perceived to, may wrongly be considered less competent, committed or ambitious than others – often due to gender stereotypes – and may be passed over for promotions, learning opportunities and recognition.

Where workplace structures, policies, procedures or culture exclude or disadvantage persons with caregiving responsibilities, employers have a duty to consider adjustments to reflect such needs. This may involve, for example:

- providing flexible scheduling
- permitting employees to take leaves of absence to care for family members who are aging, ill or have a disability or
- allowing alternative work arrangements.

Creating a flexible and inclusive workplace benefits all employees, and advantages employers in hiring, retaining and getting the best possible performance from employees.

Housing and Family Status

The *Code* prohibits housing providers from discriminating against families with children or other caregiver relationships. This applies to renting, being evicted, building rules and regulations, repairs, and use of services and facilities.

Families with children can face a range of negative and discriminatory attitudes and stereotypes in accessing rental housing. Landlords cannot refuse or discourage applications from families with children because they believe children are noisy or will damage the property (e.g., using terms like “quiet building,” “not soundproof,” or “adult lifestyle”).

While parents are obliged to exercise good parenting practices to manage children's noise and be good neighbours, families may not be harassed or evicted due to the normal noise associated with children.

Other rental policies that create barriers for families with children include arbitrary occupancy standards, no transfer policies, and restrictions on children's access to recreational or common areas, and are prohibited under the *Code*.

Landlords and other tenants must not discriminate against any tenant (or rental applicant) because they are giving or receiving care. A part-time parent, a lone parent, an expectant mother, families receiving social assistance and families with disabled, aging, lesbian, gay or racialized members are entitled to equal access to housing opportunities and enjoyment. Landlords should select tenants fairly and provide measures to support the needs of all types of families and caregiving relationships, removing barriers and actively ensuring freedom from harassment. Policies as well as facilities and structures may need updating to fulfil these objectives and uphold human rights.

Services and Family Status

Individuals can face specific or systemic barriers and discrimination in accessing services and facilities because of their family status. Service providers and vendors must recognize and make provisions for the special needs of caregivers and their relationships. This applies to a variety of sectors such as restaurants, shops, hotels, movie theatres, apartment buildings and schools as well as transit, recreation, social service and other providers.

Examples of family status accommodations include child and stroller-friendly facilities,

purpose-based vs. age-based swimming pool or other recreational schedules and restaurant access policies, flexible student degree programs, and inclusive hospital visitation rules, insurance policies, pension and health plans, scholarships, travel fares or other benefits.

Special programs allowing preferential treatment to persons because of their family status are allowed if the purpose is to relieve disadvantage or promote equal opportunity.

Duty to Accommodate

Most of us will both provide and receive care over our lifetimes: accommodation of caregiving needs benefits us all. The “duty to accommodate” is the legal obligation of employers, unions, landlords and service providers under the *Code* to meet the needs of persons on the basis of their family status. The goal is to allow employees, tenants, customers and clients equal benefit from and participation in the workplace, housing, facilities and services without “undue hardship” on the employer, landlord or service provider, such as excessive cost, or health and safety risks.

Accommodation is a shared responsibility. Everyone involved should co-operate in the process, exchange relevant information and explore solutions together. There is no set formula.

Accommodations can benefit many, but individual needs must be considered each time. Many can be made easily, at minimal or no cost. Even where the best solution might result in undue hardship, there is still a duty to consider and implement next-best measures until more ideal ones can be put in place.

As a person with family status needs:

Tell your employer, union, landlord, or service provider what your family status-related needs are, with supporting information as needed, and help explore possible solutions.

As an employer, union, landlord or service provider:

Accept requests for accommodation in good faith, asking only for relevant information and ensuring confidentiality. Determine a solution as quickly as possible, covering the costs, including any expert opinion or documentation required.

For more information

The Ontario Human Rights Commission's *Policy and Guidelines on Discrimination Because of Family Status* and other publications are available at www.ohrc.on.ca.

To file an application please contact the Human Rights Tribunal of Ontario at:
Toll Free: 1-866-598-0322
TTY Toll Free: 1-866-607-1240
Website: www.hrto.ca

To discuss your rights or if you need legal help please contact the Human Rights Legal Support Centre at:
Toll Free: 1-866-625-5179
TTY Toll Free: 1-866-612-8627
Website: www.hrlsc.on.ca