

# Know Your Rights: A Resource for Trainers and Persons with Disabilities

Information about the Employment Equity Act (EEA), the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), provincial employment standards and the Canadian Charter of Rights and Freedoms should be provided to STP® participants. Canadian Human Rights resources raise participant awareness about their rights and responsibilities in regards to employment.

## KNOW YOUR RIGHTS:

- A person with a disability cannot be discriminated against because of his or her disability
- A person with a disability cannot be denied an interview, refused hiring or firing due to his or her disability (as long as the disability does not affect performance)

## EMPLOYMENT EQUITY ACT

The EEA was passed in 1986 to address discrimination and ensure all Canadians could access the same opportunities without barriers.

Governed under the Canadian Human Rights Commission, the EEA is designed to ensure that no person is denied employment and benefits for reasons unrelated to his or her capabilities. It requires employers to correct disadvantages in the workplace experienced by members of four designated groups:

- Women;
- Aboriginal peoples;
- Persons with disabilities; and
- Visible minorities.

In addition, employers must implement the principle that employment equity means more than treating people in the same way; it also requires special measures and the accommodation of differences. The Act requires that employers identify and eliminate employment barriers for designated group members that result from the employer's employment systems, policies and practices. The goal is to institute positive policies and practices and make reasonable accommodations so the representation of persons in designated groups in the employer's workforce reflects their representation in the Canadian workforce.

Equity Employers are businesses that have at least 100 employees in their workforce. Equity employers are subject to diversity targets which outline a standard of certain percentages of each designated group that should be reflected in their workforce. Each equity employer will have different targets depending on company size and the existing designated group numbers in their workforce.

## Equity Employers Include:

- Banks,
- National communications companies,
- National transportation companies,
- Federal government departments,

Skills Training Partnership Resource

[bepinfo@ccrw.org](mailto:bepinfo@ccrw.org)

Toll free: 1 800 664 0925

TTY: 416 260 9223

- Crown corporations,
- Federal contractors (who have received a contract of \$200,000 or more to provide goods or perform services for the federal government)

### **Online Resources:**

**Canadian Human Rights Commission: Frequently Asked Questions:** [http://www.chrc-ccdp.ca/publications/ee\\_faq\\_ee-en.asp#1](http://www.chrc-ccdp.ca/publications/ee_faq_ee-en.asp#1)

**Disability and the Duty to Accommodate: Your Rights and Responsibilities:** <http://www.ohrc.on.ca/en/issues/disability>

## **UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was ratified in Canada on March 11, 2010. By ratifying the UNCRPD, Canada is required to promote and ensure the rights of persons with disabilities. The UNCRPD outlines a standard for equality that Canada has recognized and is required to strive to achieve.

The Convention does not define disability, but states that "disability is an evolving concept" and that disability "results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others."

### **Article 8: Awareness-raising**

Article 8 of the Convention reads that state parties will adopt measures to raise awareness and respect for the rights of persons with disabilities, including fighting prejudice and harmful practices. Countries which have ratified the UNCRPD should develop public awareness campaigns designed to:

- a) nurture receptiveness to the rights of persons with disabilities;
- b) promote positive perceptions and greater social awareness towards persons with disabilities;
- c) promote recognition of the skills, merits, and abilities of persons with disabilities, and their contributions to the workplace.<sup>1</sup>

### **Article 9: Accessibility**

Article 9 sets clear guidelines for accessibility affecting transportation, educational institutions and housing among others. "State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications."<sup>2</sup>

<sup>1</sup> Article 8 of the Convention on the Rights of Persons with Disabilities. The United Nations. Accessed June 21, 2010. <<http://www.un.org/disabilities/convention/conventionfull.shtml>>

<sup>2</sup> Article 9 of the Convention on the Rights of Persons with Disabilities. The United Nations. Accessed June 21, 2010. <<http://www.un.org/disabilities/convention/conventionfull.shtml>>

## Article 27: Work and Employment

Article 27 of the Convention outlines “state’s’ obligations to ensure the legal right of persons with disabilities to earn a living through work... and to prohibit discrimination.”<sup>3</sup> The Convention recognizes the barriers to employment faced by persons with disabilities. In practical terms, the convention requires countries that have ratified the protocol “must ensure that persons with disabilities apply for jobs alongside persons without disabilities, that they are protected from discrimination and they have the same rights as others in the workplace and equal opportunities for career advancement.”<sup>4</sup>

### *Online Resources:*

#### **UN Convention on the Rights of Persons with Disabilities:**

<http://www.un.org/disabilities/default.asp?id=259>

## CANADIAN CHARTER OF RIGHTS AND FREEDOMS

The Canadian Charter of Rights and Freedoms guarantees all Canadians freedom from discrimination, including discrimination based on mental or physical disability. The Charter of Rights and Freedoms is recognized under the Canadian Constitution.

### **Guarantee of Rights and Freedoms**

Section 1: The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

### **Equality Rights**

Section 15: Equality before and under law and equal protection and benefit of law:

(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.<sup>5</sup>

### *Online Resources:*

**Canadian Charter of Rights and Freedoms:** <http://laws.justice.gc.ca/en/charter/1.html>

**British Columbia Branch of the Canadian Bar Association. Overview of the Charter of Rights and Freedoms:** [http://www.cba.org/bc/public\\_media/rights/230.aspx](http://www.cba.org/bc/public_media/rights/230.aspx)

---

<sup>3</sup> The United Nations. From Exclusion to Equality: Realizing the rights of persons with disabilities, handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol. Geneva 2007. Page 86.

<sup>4</sup> The United Nations. From Exclusion to Equality: Realizing the rights of persons with disabilities, handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol. Geneva 2007. Page 88.

<sup>5</sup> The Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, Guarantee of Rights and Freedoms. Accessed June 7<sup>th</sup>, 2010. <<http://laws.justice.gc.ca/en/charter/1.html>>

## THE CANADIAN HUMAN RIGHTS COMMISSION

- The Canadian Human Rights Commission is sanctioned by the Canadian Human Rights Act to investigate and settle complaints of discrimination in employment.
- The Commission is responsible for ensuring that federally regulated employers provide equal opportunities for employment to designated groups, among them people with disabilities.
- The Commission is also mandated to develop and conduct information and discrimination prevention programs.

### **Common ways in which a people's rights are violated:**

- Goods, services, facilities or accommodations available to the general public are denied;
- A person is harassed or treated differently in a way that is harmful;
- Discrimination in regard to employment opportunities i.e. in the application process, promotions, employment benefits or working conditions;
- Discriminatory policies; hate messages on the internet or through prerecorded telephone messages; discrepancy in pay equity for work of the same value.

### **Making a Human Rights Complaint – what to do if your rights have been violated:**

When someone contacts the Commission, an officer will determine whether the matter falls under the jurisdiction of the Commission. In order for the complaint to fall within their jurisdiction, the following conditions must be met:

- The person has the right to file the complaint;
- The complaint is filed within one year from the discrimination event;
- The employer, union or service provider falls under federal jurisdiction;
- The situation described is considered a discriminatory practice under the Canadian Human Rights Act;
- The discrimination is based on one of the prohibited grounds listed in the Canadian Human Rights Act.

As soon as a complaint is filed, the respondent is notified. Each case is different. If another form of redress is available, such as a grievance through a collective agreement, it may be referred. Complaints with the Commission may be preliminarily assessed, investigated, mediation or a conciliation process begun; a large variety of options will be assessed to address a specific case.

### ***Online Resources:***

### **Canadian Human Rights Commission. Frequently Asked Questions:**

<http://www.chrc-ccdp.ca/faq/page4-en.asp>