

## Resource: Creed Discrimination

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In December 2015 the Ontario Human Rights Commission released an updated [Policy on Preventing Discrimination based on Creed](#). People of all creeds have the right to employment and services free from discrimination.

There is a strong correlation between groups of people who experience discrimination based on Creed with faithism (a phobia developed because of your beliefs), racism and xenophobia. According to the Commission, the result of these phobias can lead to the following:

- Unfair treatment
- People being afraid to disclose their creed
- Forced to choose between creed and employment or services

It is also important to note that someone who has no affiliation to a creed can also cite creed as a discriminatory ground. In instances like this, the person is treated differently because of having no belief system or is forced to participate in creed related events.

### What is Creed?

Creed is not defined in the Ontario *Human Rights Code* (Code). It can be defined as a religion or sincerely held belief which means honesty of belief and it should be generally assumed on good faith unless legitimate reason to believe otherwise. Where further inquiry is warranted, it should be as limited as necessary. This belief system influences a person's identity, way of life and a sense of fulfilment.

Remember, with associated belief:

- Perfection is not required (i.e., one may not follow every tenant set out in a religious text or practice in the same way as someone else)
- One should not be interrogated as to the strength of their belief
- It must consider the context where the belief has been compromised

The belief system typically includes the following:

1. It is a sincerely freely and deeply held belief (this does not need confirmed via documentation).
2. It is integrally linked to a person's identity (The Supreme Court of Canada described it as the following: A religious belief or commitment that is deeply rooted ... as an element of the individual's identity, rather than simply a choice or judgement she or he has made).<sup>1</sup>
3. It is a comprehensive, overarching belief system (this can sometimes be subjective).
4. It is usually connected to a community that professes a shared belief system.
5. It addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or nonexistence of a Creator or higher order of existence.

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<sup>1</sup> <https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/4-creed>

Although the five focus areas are a guide, not every belief, opinion, expression or practice is protected as a creed under the Code. Human Rights do not extend to creed practices and observations that:

- Are hateful
- Incite discrimination, hatred or violence against other individuals or groups
- Contravene criminal law

### **Discrimination Based on Creed**

To establish prima facie discrimination (discrimination on its face) a claimant must show the following:

- The discrimination is linked to and protected by the Code ground
- They experienced negative treatment or adverse impact with in the 5 social areas identified by the Human Rights Code
- The protected characteristic was a factor in the negative treatment or adverse impact

*\* Treating someone differently because of the absence of creed is also the basis of discrimination.*

When people are being treated differently because they differ in beliefs in the same creed, the Code does not cover:

- Discrimination within a purely religious service (where men and women may be treated differently because of gender)
- The Human Rights Tribunal of Ontario does not challenge the religious belief system, teachings or core form of worship

### **Examples of creed-based discrimination**

*Note: An intersectional discrimination must be acknowledged to fully address the impact of discrimination. Persons who are discriminated against based on creed are often also racialized*

#### **Direct, Indirect and Subtle**

- Derogatory language, negative comments toward individuals or communities affiliated by creed
- Insults, comments, jokes that ridicule, humiliate or demean people because of their creed identity or how they express it, including those circulated in writing by e-mail or social media
- Threats, unwelcome touching, violence and physical assault.

#### **Poisoned environment**

- Force of pressure to accept or comply with creed beliefs or take part in creed practices against someone's choosing
- Made to take part in religious activities as a term of employment
- Pressure requiring one to recite prayers in schools and at public meetings (state duty of neutrality does not mean that individuals associated with government cannot exercise their religious rights in their personal capacity)

### Systemic discrimination

- Any action taken for safety, security or public protection that relies on stereotypes about a person's religion or creed rather than on a reasonable suspicion.
- Often based on stereotypes and preconceived ideas about Code-protected characteristics
- Profiling based on creed can be a form of racial profiling

### Duty to Accommodate

The goal of accommodation is to allow people with different creed beliefs (including no creed belief) to equally benefit from and take part in the workplace or service. There may be differences in the ways that members of the same creed understand their creed and practices. As a result, an individual approach is necessary recognizing the unique identity of each person.

### Accommodation Principles.

- It respects dignity, including privacy and confidentiality
- it responds to a person's individualized needs
- It allows for integration and full participation

### Inclusive Design

Inclusive design is about creating systems, programs, spaces, policies, procedures, etc. with the needs of diverse people, including diverse creeds in mind. Example, creating prayer spaces before an employee has to request the designated space.

### Creed-based Holidays, Leaves & Ritual Observances

Many creeds have time-sensitive creed-related observances that must be accommodated e.g. Religious holidays, Sabbath, creed-based pilgrimages, rites of passage, mourning and bereavement rituals, hunting/harvesting practices, prayers etc.

### When providing time off:

- Must review options to take time off without loss of wages first (Providing paid time off where it is not available as an existing leave is not required)
- Review options with the employee
- Where possible, proactively anticipate religious holidays (but must leave room to recognize individualized needs and circumstances)

### Dress Code and Appearance Rules

Some creeds have dress and appearance requirements which may appear to conflict with uniforms, appearance standards or protective gear requirements. Accommodation must be made to the point of undue hardship, i.e., unless there are safety concerns.

Organizational style preferences, cultural customs not a legitimate reason to deny accommodation

## Indigenous Spirituality

Creed includes Indigenous spirituality practices. The Ontario Human Rights Commission does not define Indigenous spirituality in recognition of Indigenous peoples' right to define and determine this for themselves

### Examples of Indigenous Spirituality Accommodations

Providing time/space for practices:

- Smudging
- Grieving practices
- Food, hunting and harvesting practices and rites
- Partaking in Indigenous spiritual activities on culturally significant days
- Clothing, appearance standards
- Sacred objects