

EQUITY AND DUE PROCESS

The Role of School Leaders
in Upholding and Working with
the BC Human Rights Code

by

Lynda Bonvillain

Director, Member Support Services

BCPVPA



Human rights are essential to fostering safe, inclusive, and equitable public education environments.

In British Columbia, where schools reflect the multicultural nature of communities, it is crucial that the principles of equity, dignity, and non-discrimination are upheld. In January 2023, the Ministry of Education and Child Care introduced the **Anti-Racism Action Plan** for K-12 students.



This plan is designed to improve the school experience for racialized students, staff, and families, reinforcing the role of BC public schools in addressing and dismantling systemic racism. By embedding these principles, schools will play a transformative role in shaping a more inclusive and just future for all students.

With this commitment in mind, it is essential Principals and Vice-Principals understand the protections outlined in the BC Human Rights Code (BCHRC, or the Code). The Code safeguards the rights of all individuals — regardless of race, gender, sexual orientation, Indigenous identity, ability, or other protected characteristics — ensuring they are treated with dignity and respect. BC's Office of the Human Rights Commissioner (BCOHRC) enforces the Code, promoting human rights through public education, inquiries, and recommendations on systemic issues. Central to the Code's approach is a focus on non-discrimination, equality, and decolonization, recognizing both individual and collective rights and addressing the intersectional ways in which people experience both discrimination and privilege.

Principals and Vice-Principals have a key role in embedding human rights principles in the culture,

and practices of schools. Understanding the legal protections of the BCHRC both supports and empowers you to foster environments that honour diversity and that promote equity, inclusion, and decolonization. Embedding human rights principles not only ensures compliance with the BCHRC, but also nurtures an educational environment where all students, staff, and families feel respected.

The Role of School Leaders in Fostering Equity Under the BCHRC

Equity involves recognizing and addressing the unique barriers that certain groups face, and providing them with the necessary resources and supports to succeed. By committing to equity, school leaders create educational environments that meet individual student needs and ensure every student has the opportunity to reach their full potential.

Fostering equity requires policies, procedures, and practices that actively promote inclusion and combat systemic inequalities. One of the primary responsibilities of school leaders is to ensure that schools are free from discrimination, harassment, and bullying and, in alignment with the Anti-Racism Action Plan for K-12, all schools and districts must establish Codes of Conduct that specifically address racism and discrimination.

As leaders of school communities, you are uniquely positioned to implement proactive strategies that prevent discrimination before it occurs. This important shift from reactive responses to preventative approaches involves adhering to district policy and administrative procedures that are aligned with the BC Human Rights Code to protect all students.

In addition, establishing clear, school-wide practices that set expectations for equity, inclusion, and non-discrimination can help create a supportive school environment that is responsive to the school community. Encourage and support teachers in using



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culturally responsive and diverse teaching materials that reflect a variety of backgrounds, histories, and perspectives to foster a sense of belonging and respect for diversity. Creating spaces where students can express their identities, experiences, and perspectives also raises awareness and empowers them to contribute to positive change both within your building and in society. Engaging with families and communities, especially those from underrepresented groups, provides valuable opportunities to share school-wide practices, invite input, and strengthen partnerships.

Principals and Vice-Principals must also model equity-minded leadership by openly addressing issues and demonstrating a commitment to an

inclusive school environment. By being a visible advocate for equity, school leaders set a strong example for staff, students, and families. Further, prioritizing human rights principles enables you as a school leader to address systemic inequalities, ensuring that marginalized students receive the support and accommodations they need. This commitment enhances student well-being and academic success while fostering a positive school culture. Aligning school-based practices with the BC Human Rights Code, and embedding cultural competency into daily practices, are essential to a proactive approach. These efforts raise awareness of human rights, nurture empathy and understanding, and ultimately create a more inclusive and equitable environment for all students.

ABOUT THE BC HUMAN RIGHTS TRIBUNAL

The BCHRT is a direct-access Tribunal, meaning that people who believe they have experienced discrimination can file a complaint directly with the Tribunal against the person or organization they say discriminated. Legal representation is not required to file a complaint. In 2022-2023 a total of 2,624 new cases were filed with the Tribunal.

The Tribunal offers free mediation services to parties, and works to make these services available at any stage of the proceeding with an emphasis on early resolution. Mediated settlements may result in systemic change that is beyond the scope of remedies available under the Human Rights Code after a hearing. In 2022-2023 the Tribunal conducted 452 mediations, of which 262 resolved.

In the 2022-23 year, disability remained the most common ground of discrimination alleged (32%); followed by ethnicity (which includes race, place of origin, ancestry, Indigenous Identity, and colour) (29%); sex (13%); family and marital status (8%), and religion (6%). The grounds of sexual orientation and political belief composed 5% of new complaints.

Notably, many complaints allege more than one ground.

Under age 19 represents
2.6% of complaints filed.

Source BCHRT Annual Report

Guidance for School Leaders: Navigating the BC Human Rights Complaints Process

The BC Human Rights Code establishes clear expectations for equity by prohibiting discrimination based on specific protected characteristics. Beyond setting these expectations, the Code provides a structured complaint process for individuals who believe they have experienced discrimination. This process empowers individuals to formally express their concerns, seek resolution and, if necessary, pursue further action through the Human Rights Tribunal.

Principals and Vice-Principals in BC have both ethical and legal obligations to uphold the BC Human Rights Code within schools. In accordance with the Code, all complaints of discrimination must be addressed promptly and effectively, ensuring that appropriate actions are taken to resolve concerns. Establishing clear, transparent, and accessible school-wide practices for addressing complaints, and following identified district policy or administrative procedure, is essential for enabling students and staff to report incidents of discrimination. This ensures that these issues are managed fairly and with due process, fostering a culture of respect and inclusion within your school community.

It is crucial for leaders to be familiar with district policy and administrative procedures, and to follow them as a means of support. These established expectations not only provide a framework for addressing complaints but also ensure consistency and fairness in handling sensitive issues. By adhering to district policies and administrative procedures, you ensure due process for the complaint process. Reaching out to the district also provides you with the opportunity to leverage additional resources and expertise when needed. This comprehensive approach reinforces accountability.

Despite your best efforts, students or members of the school community, including parents, may choose

to initiate a formal complaint with the BC Human Rights Tribunal (BCHRT). In some instances, they may opt to bypass the school and district complaints processes altogether and directly file a complaint with the BCHRT, as every individual has the right to do. The BCHRT independently manages complaints related to discrimination under the Code.

Complaints from the public education sector often include discrimination related to race, inclusion and accommodation, gender identity, sexual orientation, and religion. Parents may also act on behalf of their children if they perceive that the school's actions —'or lack of action'—'have contributed to a hostile or inequitable environment. Complaints often arise when issues are not adequately resolved at the school level in a timely manner or are perceived to not be resolved. In some cases, a complaint may arise when parents and students feel that school-wide practices or staff behaviour have unfairly limited the student's opportunities or participation in school life. As a process, the BCHRT offers a formal avenue for seeking resolution.

The BCHRT's complaints process begins with the filing of a complaint, where the student, parent, or guardian submits details of the alleged discrimination. The Tribunal conducts an initial screening to determine whether the complaint falls within its jurisdiction under the Code. If it does, the Tribunal will serve notice of the complaint to the person named. Typically, it is the school district that is named in the complaint, along with individual district and school-based staff. If you receive a notice of complaint directly, ensure you reach out immediately to your district senior manager to ensure a coordinated and timely response. As with most legal matters related to your role as a school or district Principal or Vice-Principal, most Terms of Employment Contracts with a board of education include indemnification language providing support for legal consultation and representation in a human rights process through district-coordinated legal services.

It is not uncommon for it to take up to a year before the school district receives a notification of filing. It

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is also not uncommon in the context of the public education sector for human rights filings to be a continuing contravention — or inclusive of a series of complaints that span several years — filed as one complaint to the Tribunal. Human rights complaints can also coincide and occur along with other complaints processes, including Freedom of Information requests and Teacher's Regulation Branch Complaints. It is important to ensure that due process through coordinated and consistent communications continues to guide your best practice when working with students and/or parents who may intend to file, or who have filed, a complaint to the Tribunal. Further, when a complaint is filed it is important that you seek guidance and support from your district senior management team to ensure an ongoing collaborative relationship with a family or student who remain part of your school community during a complaints process.

BCHRT outcomes may include mediation to resolve the issue without a formal hearing. In fact, many complaints received by the BCHRT are resolved through mediation. If mediation fails, the case proceeds to a Tribunal hearing, where a legally binding decision is made. If the complaint is successful, the Tribunal can order remedies such as policy changes at the district level, staff training at the school level, or financial compensation to the student and/or parent. When financial compensation is awarded to a student or parent through the BCHRT, it is intended to compensate the complainant for harm suffered due to discrimination. This can include compensation for injury to dignity, feelings, and self-respect awarded for the emotional impact of the discrimination, or lost wages or expenses where discrimination caused a financial loss, such as missed educational opportunities, therapy costs, or other related expenses. The BCHRT determines the amount based on the nature and severity of the discrimination and the impact it had on the complainant.

In this sense, the human rights process ensures that students and families have access to recourse and due process outside of the district's own internal

complaints and appeals processes. When complaints escalate to the BCHRT, your district will navigate the formal process, even if you as the school or district Principal or Vice-Principal are solely named in the complaint.

Embedding the principles of the BC Human Rights Code (BCHRC) in school culture and practices is essential for creating safe, inclusive, and equitable environments. As school leaders, Principals and Vice-Principals play a vital role in ensuring school policies, practices, and culture align with the Code. By embedding these principles into school culture and practices, you foster environments that not only comply with legal standards but also actively promote equity and inclusion.

Supporting due process in the complaints process is a critical component of this commitment. It ensures that all complaints are handled fairly and transparently, allowing all parties involved to present their perspectives. Being responsive to complaints demonstrates respect for the concerns of students and community members and reinforces trust in the school's leadership. By establishing clear procedures and maintaining open lines of communication, Principals and Vice-Principals can effectively navigate the complexities of complaints while upholding the principles of justice and equity.

As with any investigation process, including BCHRT, BCPVPA Member Support Services are here to support you.

Support from your district, including legal indemnification, may be available under your Terms of Employment Contract in a human rights investigation process.

mssinfo@bcpvpa.bc.ca

CASE SPOTLIGHT

READ THE CASE



In this case, a parent filed a complaint against a school district under section 8 of the Human Rights Code, claiming discrimination on the grounds of mental disability. The parent argued that the district did not provide adequate educational accommodations for their child, who had multiple mental health and developmental challenges, including post-traumatic stress disorder (PTSD). The school district countered that it had fully accommodated the child to the point of undue hardship, and maintained that any issues stemmed from the parent's lack of cooperation. The school district also argued that the complaint was untimely and did not meet the requirements for a "continuing contravention" under section 22(2) of the Code, which would allow for filing beyond the six-month limit. They argued that the alleged discriminatory incidents related back to a decision made in 2014. The district claimed any subsequent interactions after the 2014 decision were merely continuations of the initial stance, not new acts of discrimination.

The district argued that the Tribunal should exercise discretion under Section 22(3) only in rare circumstances, asserting that significant delay and lack of compelling justification made it inappropriate to accept the complaint. The parent countered, claiming the complaint reflected an ongoing failure to accommodate. The Tribunal determined that the complaint constituted a "continuing contravention" under Section 22(2), rendering it timely. Consequently, the Tribunal denied the District's dismissal request, allowing the complaint to proceed.

READ THE CASE



In this case, a parent filed a discrimination complaint against a school district on behalf of his daughter, alleging that family status influenced disciplinary actions taken against the student. The complaint centers on the student's suspension for vaping at school and the student's subsequent disqualification from an extracurricular school trip to Europe. The parent argued that the school's actions were biased, affecting the student due to the parent's identity and previous challenges to school decisions.

The school district denied these claims, citing disciplinary actions based on evidence of the student's misconduct, not family status. They requested dismissal of the complaint, arguing there was no reasonable prospect of success. The Tribunal reviewed the parent's assertion that their perceived "aggressive" conduct led to unfavorable treatment of the student. However, evidence of the parent's interactions with the school primarily emerged after the decision to disqualify the student from the trip.

The Tribunal concluded that the complaint relied on conjecture, lacking concrete evidence to establish a link between the parent's identity and the disciplinary actions taken. The Tribunal found the school district's decisions were based on documented incidents involving the student, and did not constitute family-status discrimination. Therefore, it dismissed the complaint under s. 27(1)(c) of the Human Rights Code, citing no reasonable likelihood of success at a full hearing.

READ THE CASE



In this case, a parent filed a human rights complaint on behalf of their child against both the school district and school staff, alleging discrimination based on mental disability. The complaint claims that over seven years, the school's teaching methods exacerbated the student's learning challenges, causing the student distress, and that the school inadequately addressed bullying incidents. The respondents argued that they provided appropriate, respectful support and addressed bullying incidents responsibly.

The respondents sought dismissal of the complaint, citing the parent's failure to comply with a disclosure order for relevant documents and alleging that proceeding would not further the purposes of the Human Rights Code. The parent refused to provide the ordered documents, did not file a response, and indicated they would ignore the Tribunal's order. The Tribunal determined that the parent's non-compliance undermined procedural fairness and the Code's purposes. Citing the parent's conduct and lack of diligence in pursuing the complaint, the Tribunal dismissed the complaint without a hearing.