

Sex Education in Ontario: A Human Rights Challenge?

What just happened?

The Ford government recently announced they are going to repeal the current 2015 Sex Ed Curriculum and replace it with the 1998 Sex Ed Curriculum. This change means that sexual orientation, gender identity, same-sex marriage, consent, invisible differences (such as disability) and safe social media use will not be taught to students in Ontario under the curriculum. In addition to putting students at risk of harm, this decision by the Ford government is discriminatory.

What is discrimination?

Discrimination is when someone is treated unfairly or unequally because of who they are or because of their circumstances. For example, it is discrimination for someone to be treated unfairly or unequally because of their sexual orientation, gender identity, gender expression, race, family status or disability.

What is the Ontario Human Rights Code (the *Code*)?

The *Code* is the law that sets out when we are protected from discrimination in Ontario.

The *Code* protects us from discrimination in different *social areas*, including the provision of goods/services/facilities, including the provision of public education (i.e. going to school). It also protects us from discrimination on various *grounds*, including our sexual orientation, gender identity, gender expression, race, family status or disability.

Is the Ontario Government's decision discriminatory?

The *Code* protects the right of Ontario students, regardless of who they are and how they identify, to go to school and learn in an environment that is free from discrimination. By scrapping the 2015 Sex Ed Curriculum and implementing the 1998 Sex Ed Curriculum, the Ontario government is discriminating against LGBTQ students and families, students with disabilities and/or family members with disabilities, as well as other groups.

Consider the following examples:

- Jimmy is 13 and identifies as gay. Under the 1998 Sex Ed Curriculum, he and his peers will no longer learn about diversity in sexual orientation and sexual health as it relates to gay relationships. As well, they will no longer learn how to support the development of positive self-concept for peers questioning their sexual orientation. However, his peers will continue to learn about heterosexual relationships and sexual health. Jimmy is being treated differently because of his sexual orientation.

- Eugenia and Lynne are a married Lesbian couple with 8 year-old twin boys. Under the 1998 Sex Ed Curriculum, their kids will no longer learn about same-sex marriage and same sex families: only heterosexual family relationships will be taught. Eugenia and Lynne's family will be treated differently because of the parents' sexual orientation.
- Casey is a 12 year-old trans kid. She has experienced transphobic bullying at school. Under the 2015 Sex Ed Curriculum, Casey and her peers would be taught about diversity in gender identity from grade 8 onwards, including how to support the development of positive self-concept for peers questioning their gender identity. Now, she hears in the news that this information is no longer going to be taught. As a result, Casey feels isolated and ashamed. She fears that the transphobia at school will only get worse. She is being treated differently because of her gender identity.
- Corey is a 11 year-old kid who was born with HIV. He knows that people are afraid of HIV, so he keeps it a secret. Because many people do not know how HIV is transmitted or what it is like to live with the virus, they shame and blame people living with HIV and don't want to be around them. His classmates might say mean things about him or his mom online if they found out and then everyone will find out. Under the 2015 Sex Ed Curriculum, Corey and his peers would be taught about how HIV treatment can reduce the amount of virus in your blood, which reduces the risk of HIV transmission and keeps you healthy. They would also learn about other ways to reduce the risk of HIV transmission in sex activities and the importance of reducing HIV stigma (not shaming, blaming or gossiping about people living with HIV). Now, students will not be taught about HIV. Corey is discouraged and feels that he will never be accepted. He feels afraid and feels that he has no choice but to continue hiding his health condition, and dismiss any hope of dating.

What is the Human Rights Tribunal of Ontario?

The HRTO is an administrative tribunal that resolves claims about discrimination under Ontario's Human Rights Code. To start a claim for discrimination, a human rights application form must be filed with the HRTO.

Who can make a Human Rights Application?

Anyone who believes that they have experienced discrimination in circumstances covered in the Code. The person making a claim is called the Applicant.

What happens after you make a human rights application?

After you file an Application to the HRTO, they will send it to the Respondent(s) who will then have the opportunity to submit a written response. After that, the Applicant(s) and Respondent(s) will usually be invited to participate in mediation that is provided by the HRTO. Sometimes, Applicants and Respondents can explore ways to fixing the problems raised by agreement, without a hearing. If the dispute is not resolved with mediation then the HRTO will eventually schedule a hearing, which is similar to a court trial but not quite as formal.

What can the HRTO order?

After a hearing, if the HRTO concludes that there was discrimination, they can make an order, including an order that the problem with the curriculum be fixed so that it is not discriminatory. In this case, one way to fix the problem is to keep the 2015 curriculum in place.

What now?

Justice for Children and Youth (JFCY) and the HIV & AIDS Legal Clinic Ontario (HALCO) are organizing to represent Applicants who wish to come forward and file Applications to the HRTO. JFCY and HALCO are **free** legal clinics that represent clients **at no charge**. If you believe that the roll-back of the 2015 Sex Ed Curriculum violates your human rights please contact Andrea Luey or Claire Millgate at Justice for Children and Youth (416.920.1633) for legal advice.

We will be hosting an information session on August 29 at 5:30pm at The 519, where people (especially youth!) can learn more about opportunities to participate in a legal challenge. Please contact Athena Caldarola at 416.920.1633 x8221 or caldara@lao.on.ca for more info and/or to register.

