

STEPS TO JUSTICE

Human Rights Law Workshop

An OJEN facilitator's guide demonstrating a CLEO public legal information resource.



ONTARIO JUSTICE EDUCATION NETWORK
RÉSEAU ONTARIEN D'ÉDUCATION JURIDIQUE



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



About this workshop guide

This workshop guide is a collaboration between the **Ontario Justice Education Network (OJEN)** and **Community Legal Education Ontario (CLEO)**. OJEN's Steps to Justice workshops introduce audiences to common legal problems and familiarize them with a specific area of law. Using hypothetical scenarios, workshop participants explore a legal topic by navigating the practical step-by-step information on CLEO's Steps to Justice website. They learn how to use the website to find legal information, including the forms, self-help guides and referral information for legal and social services which may be helpful in working through a future legal problem.

This workshop guide was written for use in Ontario high school classrooms, but can be used (or modified) for other audiences. For more information on how to use this workshop guide, please check out our short training video available on the OJEN website ojen.ca/steps-to-justice-workshops-training-video.

OJEN is a charitable, non-profit, public legal education organization. We develop innovative educational tools that introduce young people to the justice system, help them understand the law, and build their legal capability. We partner with schools and community organizations across Ontario to prepare young people to manage the legal problems that will arise in their lives. For more information on OJEN, please visit ojen.ca.

We gratefully acknowledge the support of law students who have contributed to this workshop guide through the Osgoode Public Interest Requirement (OPIR) at Osgoode Hall Law School and through placements with Pro Bono Students Canada (PBSC). We would also like to thank the high school students who provide us with their perspectives and feedback on this resource as OJEN summer interns through the Law in Action Within Schools (LAWS) Summer Job Program.

Any legal information in this resource is intended for general educational purposes and should not form the basis of legal advice of any kind. Individuals seeking specific information about their legal problem should always consult a lawyer.

For over 45 years, **CLEO** has developed clear, accurate, and practical legal rights education and information to help people understand and exercise their legal rights. We produce print and online resources, including the Steps to Justice website, the Family Law Guided Pathways, and CLEO Connect which has information and supports for community organizations. For more information on CLEO, please visit cleo.on.ca.

STEPS TO JUSTICE HUMAN RIGHTS OVERVIEW

Activity (minutes)	Content
Warm-up (5)	<ul style="list-style-type: none"> • Clarify differences between criminal and civil law. • Group quiz on human rights law (Slides 2-6). • What are the major areas covered by human rights law? (Slide 7).
Hook (5)	<ul style="list-style-type: none"> • Advance to Slide 8 and read the demonstration scenario out loud. • Encourage participants to identify potential legal issues in the scenario. • Advance to Slide 9 and briefly review the human rights information provided, giving examples of how it might be relevant to human rights law. • Advance to Slide 10. Explain that the Steps to Justice website is a tool that can help people understand what they need to do when they have legal problems like this one. The group will next use the website to answer questions related to this scenario.
Introduce Steps to Justice (10)	<ul style="list-style-type: none"> • Distribute the participant handout, "Scenario 1: Demonstration". • Advance to Slide 11. Read the questions about the scenario out loud. • Pull up the Steps to Justice website on the display screen. • As a group, use Steps to Justice to find answers to the questions about the demonstration scenario on the slide. • Use different searching options (sub-topics, front page keyword search and header menu) and introduce the actual "steps" to follow. Use the presenter's notes on where to find the information included in this guide for support. • Ask if anyone has questions.
Group work (25)	<ul style="list-style-type: none"> • Advance to Slide 12. • Divide participants into groups and cue them to pull up Steps to Justice on their phones/computer and to start on "Human Rights" legal topic. • Give each group a scenario worksheet (Scenarios 2-5). • Each group needs at least one device with internet to complete their worksheet. • Circulate and support groups as needed.
Discussion (15)	<ul style="list-style-type: none"> • Each group has 3-5 minutes to explain their scenario and what they have learned through their investigations. Participants should refer to the completed worksheet for support. • Address questions and issues arising from their reporting.
Application (Optional)	<ul style="list-style-type: none"> • Advance to slide 13. • Since the group has practiced using the Steps to Justice website, the presenter may introduce a more complex scenario. • Participants should comment on the scenario reflecting what they have just learned. • As a group, use the website to answer the scenario questions. • Facilitator's notes are included in this guide to support discussion.



Facilitator's Package: Human Rights Law

TRUE OR FALSE



- 1. My employee, Janie, says that I am discriminating against her. But I own the business, so I can just fire her, right?**

F – Ontario's *Employment Standards Act* says your employer can't punish you (or fire you) for acting on your rights as a worker. That includes the right to be free from discrimination at work under the *Ontario Human Rights Code*.
- 2. I am a single mom. I applied to rent an apartment, but the landlord told me he preferred renting to people without kids. The ad for the apartment said it was 'suitable for young professionals.' This feels like discrimination.**

T – Generally, a landlord can't refuse to rent to someone because they have children or might have children soon. That would be discrimination on the grounds of sex and family status, which is against the *Ontario Human Rights Code*.
- 3. I'm 16, and I'm really tired of going to school. I heard employers can't turn me away for being too young, so I'm going to drop out, get a day job and make money while my friends are still stuck in class!**

T and F – It is true that human rights laws say that if you're 18 or older, an employer is not allowed to discriminate against you because of your age. But if you're under 18 and have not yet graduated from high school like this person, the law says you have to be in school during work hours.
- 4. I just moved into a house where I share the kitchen with my landlord and her family. She just found out that I am Muslim, and now she wants to kick me out. She says he doesn't want her children to be exposed to my faith. That is really wrong – you can't kick someone out because of their religion, right?**

F – The right to be free from discrimination in housing does not apply if you share housing and a bathroom or kitchen facility with the owner or the owner's family.
- 5. I found a great apartment in a women-only dorm building on my university campus, but they rejected me because I'm a trans woman. I think that's discrimination!**

T – An owner of a residence can restrict access to that residence to men only or women only. Trans people should be provided access to these residences in accordance with their lived gender identity.

Facilitator's Package

Scenarios



Start on the Steps to Justice question, “What if I’m not hired because an employer discriminates against me?” under **Discrimination at work**. Follow the steps from the landing page to answer the questions. The relevant steps are listed in brackets following the question.



Scenario 1: Demonstration

I applied for a new job and I was really excited. I didn’t notice that the employer has a specific dress code that prohibits head coverings of any kind. My religion requires me to cover my head, so the dress code does not work with my beliefs. The employer was very excited to meet me based on my qualifications, but soon after the interview I was told they were no longer hiring. The dress code has nothing to do with safety and I feel that I was discriminated against based on my religion. What can I do?

Start on the Steps to Justice topic, “Discrimination at work” with the question, “What if I’m not hired because an employer discriminates against me?”

- Can an employer decide not to hire you based on your religious beliefs? (**Landing page**)
- Is it still discrimination if the dress code doesn’t target you specifically, but rather applies equally to everyone? (**Landing page**)
- How can this person be sure that Ontario’s human rights laws apply to them? (**Step 1**)
- Who can help this person figure out what to do? (**Step 2**)
- If the Human Rights Tribunal finds that the employer broke the law, what can the Tribunal do about it? (**Step 3**)

Discussion

Religious belief is protected under Ontario's human rights law, so employers cannot choose not to hire you because of your religion. This means that if a religious practice is in conflict with a work rule – as in the case of this dress code - usually the rule should be adjusted to accommodate the religious requirement. In most cases this is true even if the employer says it's a rule that everyone has to follow - if you can't follow a work rule for a reason that goes against your human rights, the employer might be guilty of discrimination. In most Ontario workplaces, these rights are protected by the *Ontario Human Rights Code*, but there are some jobs, like postal service, that are regulated at the federal level, and so are covered by the *Canada Labour Code*. To be certain which covers you, you can find a list of these industries at <https://www.canada.ca/en/employment-social-development/programs/employment-equity/regulated-industries.html>.

If your work is regulated by the OHRC, you can access free legal advice from the Ontario Human Rights Legal Support Centre (OHRLSC). They can help you to understand the strength of your claim and the legal processes and options available to you, including whether and how to file a complaint with the Human Rights Tribunal of Ontario (HRTO). The HRTO can make a decision about whether the employer has discriminated against you and can order them to compensate you by paying you or giving you a job. They can also force the employer to change hiring practices to stop breaking the law.



Scenario 2

I have a disability that progressively makes my eyesight worse. I am now almost fully blind. I have asked my landlord to install Braille on the oven and a voice system in the elevator so I know when I am on my floor. He has refused, saying that the cost of accommodating me will “put him out of business”. Help!

Start on the Steps to Justice topic, “Discrimination in housing” with the question, “What are my rights as a tenant if I have a disability?”

- Do landlords have to make changes to their rental properties to meet the needs of people with disabilities? (**Landing page**)
- When is a landlord **not** required to accommodate a tenant’s disability? (**Landing page**)
- If the landlord needs more information about your disability in order to accommodate you, do you have to give it to them? (**Step 1**)
- What can you do if your landlord is hard to deal with or doesn’t respond to you? (**Step 2**)
- If you want to take legal action over discrimination from your landlord, who can you contact for help? (**Step 4**)

Discussion

The main idea behind human rights is that everyone should have an opportunity to fully participate in society. People with disabilities often face significant barriers to this participation. The *Human Rights Code* says that if a person has a disability, employers, service providers and landlords must make reasonable changes in order to “accommodate” their disability, even if it is inconvenient or costs money to do so. The word “reasonable” is important because there can be situations in which making full accommodations would be an “undue hardship”, or unfairly difficult. Undue hardship can occur when making a change could lead to significant health and safety risks or would cost more than the landlord’s business could afford.

Under the law, landlords and tenants must work together to accommodate tenants’ disabilities. This means that you must inform the landlord about what accommodations you require, but you don’t have to reveal your medical condition. (Cont.)

If your landlord won't make reasonable accommodations or is not responsive, it is a good idea to seek help from the Centre for Equality Rights in Accommodation (CERA) or the Human Rights Legal Support Centre. Both may be able to advocate on your behalf with your landlord at no cost. Lawyers can also do this, but generally for a fee. A lawyer can also help the event that the dispute cannot be resolved and you need to take legal action to be accommodated, but you can also contact the Landlord and Tenant Board or the Human Rights Tribunal of Ontario.



Scenario 3

I am a mother of a young baby and I sometimes have to breastfeed my child in public. I was recently breastfeeding my baby on a bench outside a grocery store and a bunch of people passing by said very rude things to me. The store manager asked me to leave, saying that it was making the rest of his customers uncomfortable. I am only trying to provide my child with nutrition!

Start on the Steps to Justice topic, “Discrimination in public places” with the question, “Can I breastfeed in public?”

- Does this person have a right to breastfeed in public? (**Landing page**)
- Is it considered discrimination under the *Human Rights Code* for members of the public to say mean things to this person or try to shame her for breastfeeding? (**Landing page**)
- Did the store manager discriminate against this woman by telling her to leave? (**Step 1**)
- Under what circumstance can the store manager refuse to accommodate this woman’s right to breastfeed her child in the store? (**Step 2**)
- If this person wants to make a human rights complaint, what should they do? (**Step 4**)

Discussion

You have the right to breastfeed in public, even if it makes other people uncomfortable.

The *Human Rights Code* does not apply to the general public, so comments from passers-by aren’t discrimination in the legal sense, but the *Code* does apply to service providers like the grocery store manager in this scenario. It is against the law to ask you to stop breastfeeding, to cover up, or to move to a private location. They must accommodate your need to breastfeed your child unless it would cause “undue hardship” - a serious cost or health and safety issue.

To make a human rights complaint, you should first seek legal advice, either from a lawyer or from the Human Rights Legal Support Centre. They can help you to file an application with the Human Rights Tribunal. Your application should include the details of what happened, names of people who could be witnesses for you and copies of any communication related to the incident. Generally you have one year from the time of the incident to file an application. While it is possible to apply after this, you will also have to show that you had a good reason for missing the deadline.



Scenario 4

I work in retail. I work long hours but my boss has always been happy with my performance. He recently decided to make everyone on staff take a drug test. I'm worried that what I choose to do on my own time will get me in trouble at work, even though I am a good worker. I'm scared I'm going to get fired.

Start with the Steps to Justice topic, "Discrimination at work" and the question, "Can an employer make me take a drug or alcohol test?"

- Can an employer require an employee to take a drug test? (**Landing page**)
- Can demanding a drug test at work be considered discrimination in Ontario? (**Landing page**)
- What are some legitimate reasons an employer can demand a drug test? (**Landing page**)
- Who should you talk to if your employer tells you to take a drug test? (**Step 2**)
- If you're being discriminated against, how long do you have to apply to the Human Rights Tribunal? (**Step 3**)

Discussion

Usually, an employer can't make you take a drug test just because they suspect you have been using drugs or alcohol. Testing like this is only allowed if it is reasonably connected to making sure employees are working safely and in the right manner, and even working in dangerous conditions – like operating machines – is not a good enough reason. In fact, demanding a drug test might even be considered discrimination and a human rights violation. If you have an addiction, this is considered a disability and is protected by the *Human Rights Code*. Casual or recreational use or abuse of drugs or alcohol is not protected.

However, there are some situations where testing might be permissible. This includes extremely dangerous jobs where impairment is likely to lead to catastrophic results, such as airline pilots. It might also be allowed if you have been involved in an accident on the job, are returning to work after treatment for drugs or alcohol, or if the employer has "reasonable cause" to believe you have come to work impaired by drugs or alcohol.

If your employer asks you to take a drug test you should ask why and whether other workers are being asked to as well. If you are part of a union, consult with your union representative in case there are rules in your collective agreement that relate to drug testing. (Cont.)

It is also a good idea to seek legal advice, either from a lawyer or from the Human Rights Legal Support Centre. If you think you have suffered a human rights violation, they can help you to file an application with the Human Rights Tribunal. Generally you have one year from the time of the incident to file an application. While it is possible to apply after this, you will also have to show that you had a good reason for missing the deadline.



Scenario 5

I am a young woman and I work in a professional corporation that is very male-dominated. My coworkers do a lot of “locker room” talk and usually I’m okay with it. However, they have started targeting me with sexist, inappropriate jokes. When I brought this up with my manager, he placed his hand on my lower back and said, “Come on, have a sense of humor. They only say these things because you’re gorgeous”. It made me very uncomfortable and I think this toxic environment will prevent me from doing my work properly.

Start on the **Steps to Justice** topic, “**Discrimination at work**” and the question, “**What can I do if I’m being harassed at work?**”

- Is the employer responsible for the discriminatory comments made by the coworkers? (**Landing page**)
- Did the manager harass the employee? (**Landing page**)
- What details should this employee track in order to prove a claim of discrimination and harassment? (**Step 2**)
- Can the manager punish this employee (e.g. not giving her meaningful work or mentoring her) for complaining? (**Step 3**)
- If this employee suffers mentally from the harassment, can the employer be forced to pay money for their emotional distress? (**Step 5**)

Discussion

Employers are responsible for protecting the human rights of their employees in the workplace. This means not only that they must not discriminate against you, but also that they must address discriminatory behaviour or harassment between employees and act to make it stop. In general, unwanted behaviour is not harassment unless it is repeated or persistent, but this manager’s actions and statement could be harassment if they had a serious impact on the employee.

To make a human rights complaint, you should first seek legal advice, either from a lawyer or from the Human Rights Legal Support Centre. They can help you to file a claim with the Human Rights Tribunal.

Your claim should include the details of what happened, who said or did what, names of people who could be witnesses for you and copies of any communication related to the incident. It is against the law for an employer to punish you for making a complaint or a claim. (Cont.)

Generally you have one year from the time of the incident to file an application. While it is possible to apply after this, you will also have to show that you had a good reason for missing the deadline.

If you go ahead with a claim there are several possible outcomes if the Tribunal finds that your employer violated your human rights. They could order that the employer gives you a job, be more observant of human rights laws or change things at work so that you don't have to work with someone who harassed you. They can also order that the employer give you money to compensate you for costs you had to pay because of the harassment or for emotional distress you suffered.



Display: *Large Group Practice* Scenario 6

I am a 43-year old truck driver who is looking for work. I recently had an interview with a trucking company and it was a disaster. I think some of what happened was discrimination.

For starters, I have a criminal record for theft from a long time ago. I got a record suspension last year, so before the interview, I gave the company access to my record. The interviewer brought up the crime I was pardoned for and asked for details about what happened. I was very embarrassed and flustered and I could not give him a good explanation.

I have also been caught speeding a couple of times. The interviewer said that even though this doesn't technically count as a criminal record, it would still be a problem for a position that requires driving.

Finally, the interviewer asked me how old I was. When I told him, he responded by saying: "We are looking for young, energetic blood. Old guys like you fall asleep at the wheel."

Needless to say, I didn't get the job. Is there anything I can do about this?



Scenario 6: Focus Questions

Participants can draw from their learning to identify potential legal issues and questions to investigate. The main issues here are 1) giving police records to employers and 2) the questions an employer can ask an applicant. Participants should separate out the different issues and assess whether the individual has a valid complaint of discrimination.

Participants should be able to conclude that the interviewer was wrong to ask about the theft, since the individual has received a record suspension for it. Also, traffic offenses are not criminal offenses, but an employer may refuse to hire on the basis of the speeding infractions if it is 1) reasonable, 2) necessary, and 3) makes sense because of what the key duties of the job are. Given that this is a job driving trucks, the employer may be legally entitled to refuse to hire the applicant based on his provincial speeding convictions.

On the other hand, the interviewer's questions and comments related to age are almost certainly discriminatory and generally off-limits in an interview. This person has good reason to claim that the employer discriminated against them based on age. However, practically speaking, the employer may be able to show that its decision to not hire the individual was based on the speeding tickets, which are a big problem for a trucking company.

Start from the topic "Discrimination at work – Can an employer ask me if I have a police record?"

Consider questions like:

- Can any and all convictions be used against you?
- Do you have a criminal record if you have provincial infractions?
- Under what circumstances can a provincial record or conviction (that has been pardoned) be used against you?

Start from the topic "Discrimination at work – When I apply for a job, what can an employer ask me? Consider question lines like:

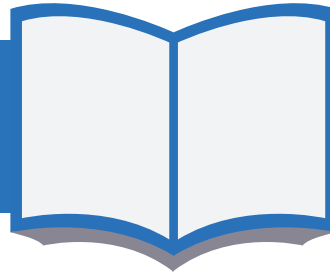
- What kinds of questions can an employer ask you when you're applying for the job?
- Can an employer ask you about your age? Why or why not?

End with general sentiments about the practicality of this particular individual pursuing a claim:

- Given all the evidence and circumstances, does it make sense for this individual to apply to the Human Rights Tribunal?

Participant Handouts

Scenarios



Scenario 1 Worksheet: Demonstration

I applied for a new job and I was really excited. I didn't notice that the employer has a specific dress code that prohibits head coverings of any kind. My religion requires me to cover my head, so the dress code does not work with my beliefs. The employer was very excited to meet me based on my qualifications, but soon after the interview I was told they were no longer hiring. The dress code has nothing to do with safety and I feel that I was discriminated against based on my religion. What can I do?

Start on the Steps to Justice topic, "Discrimination at work" with the question, "What if I'm not hired because an employer discriminates against me?"

- Can an employer decide not to hire you based on your religious beliefs?
- Is it still discrimination if the dress code doesn't target you specifically, but rather applies equally to everyone?
- How can this person be sure that Ontario's human rights laws apply to them?
- Who can help this person figure out what to do?
- If the Human Rights Tribunal finds that the employer broke the law, what can the Tribunal do about it?



Scenario 2 Worksheet

I have a disability that progressively makes my eyesight worse. I am now almost fully blind. I have asked my landlord to install Braille on the oven and a voice system in the elevator so I know when I am on my floor. He has refused, saying that the cost of accommodating me will “put him out of business”. Help!

Start on the Steps to Justice topic, “Discrimination in housing” with the question, “What are my rights as a tenant if I have a disability?”

- Do landlords have to make changes to their rental properties to meet the needs of people with disabilities?
- When is a landlord not required to accommodate a tenant’s disability?
- If the landlord needs more information about your disability in order to accommodate you, do you have to give it to them?
- What can you do if your landlord is hard to deal with or don’t respond to you?
- If you want to take legal action over discrimination from your landlord, who can you contact for help?



Scenario 3 Worksheet

I am a mother of a young baby and I sometimes have to breastfeed my child in public. I was recently breastfeeding my baby on a bench outside a grocery store and a bunch of people passing by said very rude things to me. The store manager asked me to leave, saying that it was making the rest of his customers uncomfortable. I am only trying to provide my child with nutrition!

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- Is it considered discrimination under the *Human Rights Code* for members of the public to say mean things to this person or try to shame her for breastfeeding?
- Did the store manager discriminate against this woman by telling her to leave?
- Under what circumstance can the store manager refuse to accommodate this woman’s right to breastfeed her child in the store?
- If this person wants to make a human rights complaint, what should they do?



Scenario 4 Worksheet

I work in retail and it is a very simple job – I just greet customers and sometimes cash them out. My job is also very boring, and I sometimes like to smoke a joint on my break. I think my boss might have found out about this because now the company is making me do a drug test. I'm totally going to get fired.

Start with the Steps to Justice topic, “Discrimination at work” and the question, “Can an employer make me take a drug or alcohol test?”

- Can an employer require an employee to take a drug test?
- Can demanding a drug test at work be considered discrimination in Ontario?
- What are some legitimate reasons an employer can demand a drug test?
- Who should you talk to if your employer tells you to take a drug test?
- If you're being discriminated against, how long do you have to apply to the Human Rights Tribunal?



Scenario 5 Worksheet

I am a young woman and I work in a professional corporation that is very male-dominated. My coworkers do a lot of “locker room” talk and usually I’m okay with it. However, they have started targeting me with sexist, inappropriate jokes. When I brought this up with my manager, he placed his hand on my lower back and said, “Come on, have a sense of humor. They only say these things because you’re gorgeous”. It made me very uncomfortable and I think this toxic environment will prevent me from doing my work properly.

Start on the Steps to Justice topic, “Discrimination at work” and the question, “What can I do if I’m being harassed at work?”

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- What details should this employee track in order to prove a claim of discrimination and harassment?
- Can the manager punish this employee (e.g. not giving her meaningful work or mentoring her) for complaining?
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