



# Exploring Human Rights in New Brunswick

A Newcomer's Guide



## Table of Contents

<b>Introduction .....</b>	<b>3</b>
<b>1. What are Human Rights? .....</b>	<b>4</b>
1.1 Three Levels of Human Rights Law in Canada .....	4
1.2 The <i>Canadian Human Rights Act</i> .....	6
<b>2. The New Brunswick <i>Human Rights Act</i> .....</b>	<b>8</b>
2.1 The Commission’s Educational Mandate .....	8
2.2 The <i>Act</i> and its Jurisdiction: Introducing the Areas and Grounds of Discrimination.....	8
2.3 The <i>Act</i> and its Jurisdiction: What is considered Discrimination under the <i>Act</i> ?.....	10
2.4 Examples of Discrimination under the <i>Act</i> .....	12
<b>3. The Duty to Accommodate.....</b>	<b>14</b>
3.1 Implementing Accommodations .....	14
3.2 Requesting Accommodations.....	16
3.3 Undue Hardship .....	17
<b>4. The New Brunswick Human Rights Commission and its Compliance Process.....</b>	<b>19</b>
4.1 The Compliance Process and its Stages.....	19
4.2 How to File a Human Rights Complaint.....	22
4.3 Important Things to Know About Filing a Human Rights Complaint .....	23
<b>5. The <i>Act</i> and Immigration .....</b>	<b>24</b>
<b>Appendix A: The Human Rights Commission and Other Related Provincial Government Services in New Brunswick.....</b>	<b>26</b>

# INTRODUCTION

Human rights are the fundamental rights we all have as human beings because, as human beings, we all deserve to be treated with dignity and respect. It doesn't matter what skin colour you have, which country you were born in, which religion you follow, whether you are a man, a woman, a 2SLGBTQIA+ person, a person with a disability, married or unmarried, old or young, your human rights are equally protected under the law.

Before we explain how human rights protections work in our province, remember that the New Brunswick Human Rights Commission is the government agency that enforces and protects human rights in New Brunswick. If you think that your human rights are being violated in New Brunswick, you should contact the Commission to find out more about our process.

At the same time, it's important to understand that not all alleged human rights violations can be addressed by the Commission due to its jurisdiction. To understand the meaning and scope of human rights, and the process by which human rights are enforced in the New Brunswick context, please read this guide carefully. If you have any questions about the information provided in this guide, please contact the Commission.



# 1. What are Human Rights?

Human rights come from the idea that everyone deserves certain basic and necessary protections and freedoms, regardless of their background or personal characteristics. These rights became law in the 20<sup>th</sup> century as countries around the world signed international agreements on human rights, known as human rights instruments or treaties like the *Universal Declaration of Human Rights*. They were then incorporated into national laws, including constitutions and provincial legislation like the New Brunswick *Human Rights Act*.

Human rights laws cover a wide range of protections, including but not limited to:

- ❖ The right to be free from discrimination.
- ❖ Fundamental freedoms, like freedom of religion, thought or expression, etc.
- ❖ Right to life, liberty, and security of person.
- ❖ Equality rights, i.e., equality before the law and equal protection of the law for all.

Human rights ensure that we are treated with dignity, respect, and fairness, and that we all have the same opportunities to thrive and be safe and happy. They protect our dignity and allow us to live with freedom and equality in society.

In Canada, human rights are protected in various laws and policies, which ensure everyone is treated with fairness and respect by governments, public and private institutions, individuals, employers, landlords, and service providers, etc.

## 1.1 Three Levels of Human Rights Law in Canada

To understand how human rights work in Canada, we need to think of three levels of human rights law: **international, national or federal, and provincial.**

While our human rights may overlap across these three legal areas of jurisdiction, the actual enforcement of human rights will typically happen under one of these areas. For example, if your human rights are violated in New Brunswick, they would (in most instances) be addressed in the province through the New Brunswick Human Rights Commission's complaints process.

There are three levels of human rights laws in Canada, which apply to different contexts and have different enforcement mechanisms:

### ❖ International Human Rights



**International human rights are universal human rights standards for people and nations across the world.** Most countries have agreed to respect these rights through international human rights treaties and documents like the *Universal Declaration of Human Rights* or the *International Covenant on Civil and Political Rights*, etc. These human rights documents guarantee certain fundamental freedoms and protections, such as the right to be free from discrimination, the right to express your thoughts and beliefs, the right to practice your religion, and the right to receive a fair trial, etc.

International human rights are important because they **set global standards for how governments should treat their citizens and promote respect for human rights** and human dignity across the world. Canada has signed various international human rights documents, which means that it has an international obligation to protect and promote the rights guaranteed in those documents for the well-being and dignity of Canadians. To ensure that these international human rights are implemented and respected in Canada, Canada's federal and provincial governments pass laws that protect these rights across the country.

### ❖ Constitutional Human Rights

Constitutional human rights are those rights and freedoms that are protected by the Canadian Constitution, specifically in the section called the *Canadian Charter of Rights and Freedoms* (*Charter*). The *Charter* is part of the *Constitution Act* of 1982 and is the highest law in the country. **This means that all laws in Canada must align with the rights protected under the *Charter* and government and public institutions must respect and uphold these rights in their decisions and policies.**

*Charter* rights include important protections such as freedom of speech, freedom of religion, the right to equality, protections against unreasonable search and seizure, etc. If a law, government action or policy violates the rights protected by the *Charter*, courts can declare such laws or policies as unconstitutional, meaning that the law or policy would no longer be valid. It is important to note that the *Charter* only applies to governments, i.e., the federal, provincial, and territorial governments in Canada, and it does not apply to private businesses, individuals, or organizations.

It is also important to note that *Charter* rights are enforced by courts, and the New Brunswick Human Rights Commission does not have the powers to enforce any *Charter* rights. If you think your *Charter* rights have been violated, you can file an application in a provincial court.

### ❖ Statutory human rights

**Statutory human rights are human rights protections provided by specific federal, provincial, or territorial laws to ensure fairness, equality, and protection from discrimination in various aspects of life.** These human rights laws prohibit unfair treatment based on personal characteristics like race, gender, age, disability, or religion, and they are upheld by laws known as Human Rights Acts. The federal government and each province and territory in Canada has its own Human Rights Act that applies within its authority.

The Human Rights Acts of the federal, provincial, or territorial governments are administered by their Human Rights Commissions, which are government agencies with powers to protect

and promote human rights in their areas or jurisdictions. By filing complaints with commissions in the province or territory where their rights were violated, people can address human rights violations and seek remedies like payments for financial losses or for harm to their dignity and respect caused by acts of discrimination.

**In New Brunswick, the New Brunswick *Human Rights Act* is the principal human rights law that protects citizens from discrimination and harassment.**

While the Commission can look into instances of discrimination that take place in New Brunswick, certain areas fall under federal authority or jurisdiction. **These can only be addressed by the Canadian Human Rights Commission (through the *Canadian Human Rights Act*)** and not by the New Brunswick Human Rights Commission (see below for details).

## 1.2 The *Canadian Human Rights Act*

The *Canadian Human Rights Act* is a federal human rights law that applies only to areas **regulated by the federal government**. These areas can include employers and service providers like:

- Postal services
- Airlines and transportation
- Banks and financial institutions
- Federal government departments like Service Canada or Immigration, Refugees and Citizenship Canada (IRCC)
- The Royal Canadian Mounted Police (RCMP)
- Telecommunications companies like the CBC or Radio-Canada

The *Canadian Human Rights Act* also has jurisdiction regarding allegations of discrimination relating to First Nations governments and other First Nations organizations.

If you think you have faced discrimination in one of the above noted areas, you should contact the [Canadian Human Rights Commission](#), even if you are a resident of New Brunswick. They can provide more information on the *Canadian Human Rights Act* and their process to file a complaint.

Sometimes the appropriate jurisdiction for a complaint can be hard to identify. In cases where you are unsure of the agency that has jurisdiction over your situation, please contact the New Brunswick Human Rights Commission for more information.

The *Canadian Human Rights Act* protects Canadians from discrimination **based on 13 different personal characteristics**, also known as grounds of discrimination. These include:

- ❖ Race
- ❖ National or ethnic origin
- ❖ Colour
- ❖ Religion
- ❖ Age
- ❖ Sexual orientation
- ❖ Gender identity or expression
- ❖ Marital status
- ❖ Family status
- ❖ Disability

- ❖ Sex
  - ❖ Genetic characteristics
  - ❖ A conviction for which a pardon has been granted or a record suspended.

## 2. The New Brunswick *Human Rights Act*

The New Brunswick *Human Rights Act (Act)* is the statutory human rights law in New Brunswick that protects people from discrimination and harassment. Under the *Act*, discrimination is prohibited based on **16 protected grounds**. These grounds represent your identity or **personal characteristics** (e.g., race, colour, religion, sexual orientation), which may make you more vulnerable to discrimination.

### About the *Act*:

The *Act* is considered **quasi-constitutional**, which means it has **elevated status among the laws in New Brunswick**. This special status gives the *Act* authority over other laws, contracts, agreements, rules, and policies in the province. It means that the *Act* can overrule the other laws, rules, etc., if they conflict with or violate its protections.

Let's say there's a rental agreement that prohibits pets from entering the building (this is often known as a "no-pets" policy). A tenant signs the agreement as they have no pets at that time. Later, the tenant is diagnosed with a physical disability and gets a service animal as support for that disability.

In this situation, because of its higher status, the *Act* would override the landlord's no-pets rule, as the *Act* allows tenants with a disability to have a service animal in the apartment.

### 2.1 The Commission's Educational Mandate

The *Act* also empowers the **New Brunswick Human Rights Commission to educate the public about human rights in New Brunswick**. This includes providing educational information, resources, workshops, outreach activities, and presentations to the public, so they are more knowledgeable about their rights and responsibilities under the *Act*.

### 2.2 The *Act* and its Jurisdiction: Introducing the Areas and Grounds of Discrimination



#### Employment

Includes everything related to finding a job, like filling out application forms, job ads, questions during interviews, whether written or spoken, etc.

Employment also covers situations where you might be



#### Housing

Includes situations where you might be denied the opportunity to rent, lease, or buy a house, an apartment, or an office space. It also covers cases where you face unfair treatment or discrimination in any aspect



#### Services

Includes any service or facility that is available to the public, including restaurants, hotels, hospitals, schools, universities, municipalities, government, and any other type of business that provides services to the public.



denied a job or treated unfairly in a current job because of a protected characteristic, like your race.

of the lease, rental, or purchase agreement.

This area covers situations of discriminatory treatment when accessing services or being denied a service because of a protected characteristic.



### Publicity

Includes any publications, posters, banners, displays, notices, signs, symbols, or emblems that show discrimination or the intention to discriminate against people protected under the *Act*.



### Professional, Business or Trade Association

Includes organizations like unions or trade associations, for example the Nurses Association of New Brunswick or the Construction Association of New Brunswick. It covers situations where you might be denied membership, or removed, suspended, or treated unfairly within an association based on any of the grounds protected under the *Act*.

The *Act* protects individuals from discrimination based on the following 16 grounds:

- ❖ **Race:** Refers to being part of a specific racial group of a similar heritage, for example being Black, Caucasian, Asian, Indigenous, etc.
- ❖ **Colour:** Refers to the colour of a person's skin.
- ❖ **Ancestry:** Refers to being related to or born in a group that shares cultural and ethnic backgrounds, for example First Nations, Anglophones, Acadians, Latinos, etc.
- ❖ **Place of origin:** Refers to the place a person is born, like a country or a province/state.
- ❖ **National origin:** Refers to the country where a person is born.
- ❖ **Creed or religion:** Refers to a person's beliefs and practices, including their faith, spiritual beliefs, or religion, for example Buddhism, Islam, Catholicism, etc. Creed
- ❖ **Age:** Refers to a person's age, and includes being a child, a young adult or a senior.
- ❖ **Physical disability:** Refers to any disability caused by injury, illness, or birth issues. For example, back problems, diabetes, heart conditions, cancer, chronic pain, mobility issues, etc. Service animals and emotional support animals used by persons with physical disabilities for support are protected under this ground.
- ❖ **Mental disability:** Refers to intellectual or developmental disabilities (e.g., Down Syndrome), mental illnesses (e.g., depression or anxiety), or learning difficulties (e.g., dyslexia). Service animals and emotional support animals used by persons with mental disabilities

may also include a deeply held belief system, for example being vegan.

- ❖ **Sex:** Refers to a person’s biological characteristics of being a man or a woman. It also includes situations related to pregnancy, the potential of becoming pregnant, or any issues related to pregnancy.
- ❖ **Sexual orientation:** Refers to a person’s emotional and physical attraction to others, for example being gay, lesbian, bisexual or heterosexual.
- ❖ **Gender Identity or Expression:** Gender identity refers to how someone personally experiences their gender, whether as a man, a woman, both, neither, or a non-binary person. Gender expression refers to how someone shows their gender to others through behavior, appearance, name, or pronouns (e.g., he/him, she/her, they/them, etc.).
- for support are protected under this ground.
- ❖ **Marital status:** Refers to whether a person is married, single, widowed, divorced or in a common-law relationship. It also includes being married to a particular person and/or being a caregiver to a spouse.
- ❖ **Family status:** Refers to having or not having children or a family and being related to or taking care of family members. It also includes having caregiving obligations, for example, having to take a family member to medical appointments.
- ❖ **Social condition:** Refers to a person’s source of income, type of occupation or level of education. For example, people who receive social assistance benefits (source of income) are protected under this ground.
- ❖ **Political belief or activity:** Refers to a person’s political beliefs or activities, such as being part of a political party, advocating for public causes, participating in protests, running for office, or supporting political candidates.

## 2.3 The Act and its Jurisdiction: What is considered Discrimination under the Act?

**Discrimination** means treating someone unfairly or differently because of who they are. **It happens when someone is not given the same chances, faces disadvantages, or is treated unfairly due to their personal characteristics.**

- For instance, if a job seeker is not hired just because they are older, or if a person is refused service at a store because of their service animal, it could be considered discrimination.
- **Discrimination can also include harassing behaviour**, such as unwelcome actions, comments or jokes based on a person’s protected characteristics (e.g., race, gender, religion, etc.). This often creates an environment that is intimidating, offensive or hostile for the person with the protected characteristic.
- Discrimination can also take place when an employer, service provider, or housing provider **refuses or fails to accommodate someone** who belongs to a protected group.

Not all forms of discrimination are illegal in New Brunswick. **For a situation to be considered discrimination under the *Act*, it must be related to one or more of the protected grounds of discrimination.**

Let's consider the following examples:



Amira, a middle-aged woman with extensive experience, applies for a managerial position in a retail company. Despite her qualifications and experience, the employer dismisses her application because they believe her age could prevent her from performing managerial duties effectively. A few weeks later, she learns that the employer hired a much younger and less experienced worker instead, solely because of their younger age.

This shows discrimination in the hiring process, as age discrimination is prohibited under the *Act*. Amira faced unfair treatment due to her age even though she was well-qualified and capable of excelling in the managerial role.



Jacques is searching for an apartment to rent and finds a place that he likes. However, when negotiating with the landlord, they cannot agree on the rental price. The landlord proposes a higher price, and Jacques feels it is unfair for the size of the apartment. In the end, the landlord rents the unit to someone else willing to pay the higher rent. While this situation may be frustrating, it **would not fall under the jurisdiction of the *Act* as it is not related to a protected ground**, such as race, religion, gender, disability, etc.

**Please note that situations of discrimination can be complex, and the determination of whether a situation is discriminatory under the *Act* must be made on a case-by-case basis.**

It is also important to note that the Commission can only accept and review complaints where a person claims they were treated unfairly because of a protected characteristic (e.g., disability) in a protected area (e.g., employment). There are other government agencies that can provide support and services when you are experiencing issues in housing, employment, and services that do not fall under the Commission's jurisdiction. For a breakdown of these government agencies and their jurisdictions, please refer to **appendix A** at the end of this guide.

## 2.4 Examples of Discrimination under the Act



### National origin discrimination in housing

Laila is a newcomer from India (**national origin**) and is looking to rent an apartment (**housing**) in rural New Brunswick. She applies to four different units and gets denied every single time. When she asks one of the landlords why they denied her application, they tell her that their buildings are scent-free and foods from Laila's country have strong aromas that would upset other tenants in the building.



### Mental disability discrimination in services

Damiano attends language classes at a community centre (**services**) and has depression and anxiety (**mental disability**). His psychiatrist recommends him to use a service animal to assist with his disability. When Damiano brings his dog to his language class, the teacher tells him that pets are not allowed in the building. Damiano tells the teacher that the dog is a service animal and shows his doctor's note, but he is still denied entrance to the class.



### Social condition discrimination in housing

James receives social assistance benefits (**social condition**) from the government and wants to rent an apartment (**housing**). However, multiple landlords turn him down stating that they do not rent to individuals who rely on social assistance, based on the assumption that their financial situation would make them unreliable as tenants.



### Religion discrimination in employment

Amal is Muslim (**religion**) and works at a fast-food restaurant with a strict break schedule (**employment**). Amal asks her supervisor for a flexible schedule to complete her salah or prayers at the appropriate times during her shifts. However, her supervisor says that she is only allowed breaks during the company's approved schedule and denies her request.



### Race discrimination in services

Akira is being bullied at school (**services**) for being Asian-Canadian (**race**), with kids making hurtful jokes and treating her unfairly during classes. Akira's parents tell the school about the bullying, but the school fails to take action to protect Akira and the bullying continues.



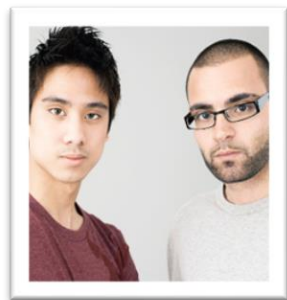
### Family status discrimination in employment

Lorena takes care of her elderly mother who lives with her and needs help with medical appointments and daily tasks (**family status**). Lorena asks her boss to adjust her work schedule (**employment**) so she can manage her caregiving duties and take her mother to appointments. Instead of providing support, her boss keeps assigning her extra work and denies her requests to take her mother to medical appointments.



### Physical discrimination in services

Daryna has epilepsy (**physical disability**) and has regular doctor's appointments that often make her miss class time. According to a university (**services**) policy, students may face academic penalties if they miss a certain number of classes every year. Daryna gives the school a note from her doctor explaining her missed class time. However, the school still penalizes Daryna and warns that she might fail the school year if she continues to miss her classes.



### Sexual orientation discrimination in services

At a restaurant (**services**), a gay couple (**sexual orientation**) named Kofi and Dominique are enjoying their meal when the server starts making hurtful comments about their relationship. The server refuses to provide them with proper service and openly expresses disapproval of their presence in the restaurant. They feel uncomfortable and leave the restaurant.

## 3. The Duty to Accommodate

Under the *Act*, employers, service providers, landlords and property owners have a **legal responsibility to make reasonable changes or adjustments to their rules, policies, practices, and operations to meet the needs of protected individuals** (for example, someone with a disability). This legal responsibility is called the **duty to accommodate, and it is the law**.

These changes or adjustments to a rule, policy, practice, etc. are known as **accommodations** and aim to **remove barriers** and create an **inclusive environment** for all individuals.

### 3.1 Implementing Accommodations

To ensure successful accommodations, employers, service providers, and housing providers should consider the following principles:

- ❖ **Dignity:** The person requesting the accommodation should always be treated with respect. When providing accommodations, it is important to avoid unfair treatment or making individuals feel inferior.
- ❖ **Personalization:** Each person is unique and has different needs. Accommodations should be customized to meet the specific requirements of the person requesting the accommodation. Understanding each situation, its challenges, and the personal circumstances and needs of the people involved helps in providing the right support.
- ❖ **Inclusion:** When providing accommodation, an environment should be created where everyone feels welcome and can fully participate. Accommodations should remove barriers and ensure equal access to opportunities, advancement, and participation.

Most importantly, the duty to accommodate involves open communication and finding practical solutions that respect people's rights and needs. Employers, landlords, and service providers should work together with individuals to understand their specific needs and make reasonable changes to ensure everyone has **equal access and can fully participate**.

The duty to accommodate means that sometimes it is **necessary to treat someone differently in order to prevent or lessen discriminatory impact**.



For example, imagine a public transportation system that requires passengers to climb stairs to board buses. This can create a barrier for individuals with mobility disabilities who may have

difficulty using stairs. In such cases, the duty to accommodate may require public transit to install ramps or lifts to ensure equal access for everyone, especially for passengers with disabilities.



Let's consider another scenario where a restaurant has a policy that enforces a strict "no outside food" rule. However, a customer with a severe food allergy needs to bring their own safe food to avoid a life-threatening reaction. In this case, the restaurant may have a duty to accommodate and make an exception to their policy by allowing the customer to bring their own food for their safety. By doing so, the restaurant ensures that the customer can fully participate in dining at their establishment, without facing discrimination due to their medical condition (physical disability).

**In both cases, implementing accommodations ensures that reasonable adjustments are made to remove barriers and promote equal opportunities for all individuals, regardless of their personal characteristics.**



### Accommodation Examples in Employment

Some examples of accommodations in employment may include:

- ❖ Providing special tools or equipment, like a screen reader or a modified keyboard, to assist an employee with a physical disability.
- ❖ Creating spaces for employees who may need to observe prayers or religious practices.
- ❖ Allowing employees to wear clothing that complies with their religious faith, e.g., a hijab or turban, by providing flexible work uniform options.
- ❖ Offering flexible work options, like part-time hours or reduced job duties, for employees with children or family responsibilities.
- ❖ Ensuring that restroom facilities are inclusive and provide options that align with an employee's gender identity.



### Accommodation Examples in Services

Some examples of accommodations in retail businesses or restaurants may include:

- ❖ Providing menus in Braille or large print for customers with visual impairments.
- ❖ Allowing service animals, such as guide dogs, to accompany customers with disabilities into a store.
- ❖ Making sure that seats suitable for people with mobility difficulties are available.

- ❖ Providing alternative delivery or shopping services for seniors or people with disabilities who may have difficulty visiting a store in-person.

Some examples of accommodations in schools and universities may include:

- ❖ Providing extra time or a quiet space for students with learning disabilities during exams or class activities.
- ❖ Providing a teaching assistant for a student with a disability to ensure they receive the support they need to succeed.
- ❖ Ensuring transgender and non-binary students have access to the bathrooms and locker rooms that align with their gender identity.
- ❖ Offering a flexible schedule or alternative arrangements for exams or class activities during religious holidays.

Some examples of accommodations in government and municipal services may include:

- ❖ Creating quiet spaces at government service centers to help people with sensory sensitivities or neurodivergent needs feel more comfortable and supported.
- ❖ Offering sign language interpreters at public events or government meetings so that people who are deaf or hard of hearing can understand and participate.
- ❖ Having flexible hours for community meetings or government offices to accommodate individuals with different schedules or family responsibilities.
- ❖ Creating user-friendly forms and applications for government services so that everyone, including those with different reading abilities, can access them easily.



### Accommodation Examples in Housing

Some examples of accommodations in housing may include:

- ❖ Adding a ramp or handrails to help tenants with mobility difficulties easily access the building.
- ❖ Allowing tenants with disabilities to have service animals, even if a building has a "no-pets" policy.
- ❖ Offering larger apartments or making other flexible arrangements for tenants with families.
- ❖ Having flexible tenant screening criteria to accommodate newcomers who may not have a credit or rental history in Canada.
- ❖ Installing visual fire alarms for tenants who are deaf or hard of hearing.

## 3.2 Requesting Accommodations

**The accommodations process is collaborative.** This means that if you request an accommodation, you must work with the other party (for example, your employer) to find and accept a **reasonable accommodation** that meets your needs. You must clearly communicate with the other party to explain the specific needs of your accommodation and provide feedback on how the accommodation is working once it has been provided.

If the accommodation request relates to a disability, pregnancy, or, in some cases, religion, you may need to provide **documentation and additional information** to support your request. This may



include a doctor's note, a note from a psychiatrist, or a letter from a religious institution supporting the need for the accommodation.

**Please note** that when you request an accommodation, **an employer, service provider or landlord is not entitled to know your exact diagnosis or the names of medications you are taking.**

A doctor's note or other documentation only needs to provide relevant information about your needs and limitations to help the accommodation provider implement your accommodation request.

**Under human rights law, you are only entitled to reasonable accommodations not a perfect one.** This means that you must accept accommodations that reasonably meet your needs, even if they are not your preferred options.

**For example,** imagine you have a visual impairment and need assistive technology to read printed documents at your new job. The company offers you a less expensive but effective assistive technology solution that meets your needs. Even though it's not the specific technology that you requested, it would be considered a reasonable accommodation, as it accommodates your needs and allows you to perform your job efficiently.

### 3.3 Undue Hardship

Under human rights law, an employer, housing, or service provider's duty to accommodate ends at **the point of undue hardship.** The point of undue hardship is reached when the accommodation becomes too difficult, unsafe, or costly for the landlord, employer, or service provider to implement.

It is important to understand that **undue hardship is evaluated on a case-by-case basis.** This means that a landlord, employer, or service provider must evaluate each accommodation request individually before making the decision that they cannot accommodate the request. **Undue hardship cannot be used as an automatic excuse to refuse someone's reasonable requests for accommodation.**

If employers, service providers, or landlords claim that they can't offer an accommodation because of undue hardship, **they must show that they explored all possible accommodation options before reaching this decision.**

#### Examples of undue hardship:

- ❖ A small business with tight finances cannot afford expensive changes to an employee's workstation to accommodate their physical disability.
- ❖ A business with few staff members cannot provide extended leave for an employee who has family responsibilities (for example, taking their child to doctor appointments), as it might put too much strain on the other workers.

- ❖ A company that operates heavy machinery cannot accommodate an individual with alcohol addiction because of safety concerns.
- ❖ A small rural school with limited resources cannot provide specialized equipment or support for students with complex disabilities.

## 4. The New Brunswick Human Rights Commission and its Compliance Process

The **New Brunswick Human Rights Commission** (Commission) is the provincial government agency that ensures the human rights of all New Brunswickers are protected under the *Act*. **If a person believes that they have experienced discrimination based on one or more protected grounds, they can file a complaint with the Commission.** This complaint mechanism is called the **compliance process**.

**During the compliance process, the Commission remains neutral.** This means that the Commission doesn't take sides or favor either the **complainant** (the person making the complaint) or the **respondent** (the person or organization accused of discrimination). By remaining neutral and impartial, the Commission ensures that the process is fair, unbiased, and objective. This lets the Commission carefully examine all the available information and find a fair and unbiased resolution to a complaint, within the frameworks of the *Act*.

### 4.1 The Compliance Process and its Stages

**The compliance process has several stages and can lead to different outcomes, depending on the specific details of each complaint.** Some complaints might be resolved through mediation or go before a Board of Inquiry, while others might be dismissed because they lack evidence to support a claim of discrimination. **As a result, not every human rights complaint will go through all the stages of the compliance process.**

The following is a simplified description of the various stages in the compliance process:





1

INTAKE

### Contact the Commission by phone or email

In this stage of the process, you can talk to an officer to **discuss your situation**. The officer will give you information about the *Act* and the compliance process. If your situation does not fall under the Commission’s jurisdiction, the officer may also recommend you contact another government organization like WorkSafeNB or the Ombud (for a breakdown of other government agencies and their services, please consult **Appendix A**). Your conversation **will be confidential until you decide to file a complaint**.



2

COMPLAINT  
FORM  
SUBMISSION

### Fill out a Complaint Form

If you decide to file a complaint, you must use the Commission’s official complaint forms. You can find the online complaint form on our website ([www.gnb.ca/hrc-cdp](http://www.gnb.ca/hrc-cdp)). We can also send you the form via mail or email. In the complaint form, you are the **complainant** and the person you think discriminated against you is the **respondent**. Fill out all sections of the form and describe the events as best as you can. Make sure to select one or more grounds of discrimination (e.g., race, colour, etc.) and the area or areas where the discrimination happened (ex: employment, housing, or services). **You must return the complaint forms fully completed and signed to the Commission via email or regular mail.**



3

TRIAGE

### Triage

Once you file a complaint, the Commission will review it to make sure that it meets the legal requirements, and that it falls under its jurisdiction. **At this point your complaint could be closed if it doesn’t fall under the Commission’s jurisdiction or if the information provided does not support the allegation of discrimination.** If your complaint is closed, you will receive a letter from the Director. If your complaint passes the legal requirements, it will be assigned to an officer.



4

COMPLAINT  
FORM  
REVISIONS



5

COMPLAINT  
NOTIFICATION

### Complaint Form Revisions and Complaint Notification

Your complaint form may require changes, for example, if you wrongfully selected a ground of discrimination that does not apply to your situation. If that’s the case, **an officer will contact you via phone or in person to make the changes to the form.** The officer will also explain the compliance process and offer mediation. At this stage, the Commission will also **contact the respondent** to explain the process to them and share a copy of your complaint, so they are aware of the allegations made against them.

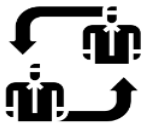


6

MEDIATION

## Mediation

**Mediation is a voluntary** part of the process and can **happen at different stages** of your complaint. During mediation, a Commission staff member **helps you and the respondent resolve the complaint by mutual agreement**. If mediation is successful, the respondent may agree to pay you for lost wages or compensate you for injury to your dignity and self-respect; offer you an apology; receive human rights training; or change its policies and procedures. If mediation is unsuccessful or not accepted by both parties, the complaint moves to the next stage of the process.



7

RESPONSE/  
REBUTTAL

## Responses and Rebuttal

Once the respondent receives your complaint, they will have the opportunity to provide a **response** to your allegations. This provides the Commission with the respondent's version of the events that took place. Once the respondent files their response, you will get a chance to provide a **rebuttal** or counter argument to that response.



8

NEXT STEPS  
ANALYSIS

## Next steps analysis

The Commission takes the evidence and information provided in the complaint, response, and rebuttal to determine whether the complaint is to be **closed** or if it requires the **gathering of more information**. If the Commission requires more information, the complaint will be referred to **investigation**.



9

INVESTIGATION

## Investigation

If a file is assigned to an investigator, they may collect documents (for example emails, text messages, safety reports, pay stubs, etc.), conduct interviews with witnesses and the parties involved, and gather all other evidence on your complaint. Investigators then **prepare a report with their findings and recommendations**. Their recommendations may be either to **close a complaint for being without merit** (which means the evidence does not support a finding of discrimination) or to send the complaint to a **Board of Inquiry**. This report is given to Commission Members.



### Commission Meeting

Commission Members are representatives of the public that review Commission staff's recommendations to **decide if a complaint should be closed or sent to a Board of Inquiry for a formal hearing.**

Commission Members may refer your file to a Board of Inquiry if they conclude that the investigation report supports a finding of discrimination.



### Board of Inquiry

A Board of Inquiry has the power to make a **final decision on a human rights complaint.** The Board operates separately from the Commission and its decisions become public record. During a Board hearing, all parties involved in the complaint have an opportunity to present their evidence, arguments, and witnesses. **Based on the evidence, the Board makes a legally binding decision on whether discrimination occurred and what steps should be taken to remedy the situation.**

Potential remedies may include reinstatement in a job, payment of lost wages, or payments for injury to dignity and self-respect caused by the discrimination. The decisions of a Board of Inquiry can be appealed in the provincial courts.

**Appeal against dismissal of a complaint:** If your complaint is dismissed by the Director, you have the opportunity to appeal the decision. To do so, you must fill out a "Review of Director's Decision Form" within 30 days of the closing of your complaint, explaining why you disagree with the decision.

## 4.2 How to File a Human Rights Complaint

To file a complaint with the Commission, you will need to fill out the following forms:

- ❖ **Human Rights Complaint Form**
- ❖ **Contact Information Form**
- ❖ **Authorization for Release of Personal Information**
  - This form allows the Commission to share your form with the respondent.

All these forms are available on the Commission's website at [www.gnb.ca/hrc-cdp](http://www.gnb.ca/hrc-cdp). The Commission can also send them to you via email or regular mail. **You must submit all these forms when filling a complaint.**

Once your complaint has been reviewed by Commission staff, you may be asked to complete an Authorization for Release of Medical Information Form. This form is required if your complaint alleges discrimination under a disability or pregnancy, as it allows the Commission to request medical documentation (for example x-rays, diagnosis, etc.) from physicians, hospitals, clinics, etc.

## 4.3 Important Things to Know About Filing a Human Rights Complaint

- ❖ **Your complaint must be filed within one year of the date when the incident of discrimination** happened. Otherwise, you must file an additional “**Time Limit Extension Request Form**”. This form asks you to explain why you were not able to file a complaint within the one-year time limit.
- ❖ To file a complaint with the Commission, the situation of discrimination that you are reporting **needs to have taken place in New Brunswick**.
- ❖ The situation of discrimination you are reporting **must be related to one or more grounds of discrimination** (e.g., race, religion, national origin, etc.) and **have taken place in one or more areas of discrimination** (e.g., employment or housing).
- ❖ Make sure you fill out all the sections of the complaint form to the best of your abilities before returning it to the Commission. If you have questions about filling out the complaint form, contact the Commission.
- ❖ **All forms must be filled in either English or French.**
- ❖ Because of its neutrality, the Commission cannot provide advice to help you fill out complaint forms. However, **a family member, friend, interpreter, advocate, or settlement agent can help you fill out the required forms**. You can also choose them to represent you throughout the different stages of the compliance process, but you have to let the Commission know.
- ❖ If you need an accommodation to complete the complaint form, for example, due to a disability, please inform Commission staff. While the Commission cannot provide legal advice, we can accommodate individuals in various ways to support the completion of the required documentation.
- ❖ **You do not need a lawyer to file a human rights complaint**. However, you may choose to have a lawyer represent you throughout the process at your own expense. You have to let the Commission know if you have legal representation.
- ❖ In complaints involving physical or mental disability and pregnancy, **you will need to submit medical documentation, like a doctor’s note, with your specific diagnosis**. This helps the Commission confirm that you identify with a protected characteristic, e.g., a disability.
- ❖ **A complaint can take from several months to up to several years** to be processed and resolved, depending on its complexity and facts. The Commission will keep in contact with you throughout the process to let you know the status of your complaint.

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## 5. The *Act* and Immigration

### Do I have to be a Canadian citizen or a permanent resident of Canada to file a human rights complaint with the Commission?

No, you don't need to have permanent residence or citizenship to file a human rights complaint. In New Brunswick, anyone

who has faced discrimination based on one or more of the protected grounds under the *Act* can file a complaint. **It doesn't matter what your immigration status is – whether you're a non-status immigrant, a refugee, an international student, a temporary foreign worker, or belong to any other category – if you have experienced discrimination, you have the right to make a complaint.**

The *Act* ensures that everyone, regardless of their immigration status, is protected from unfair treatment and has the opportunity to seek justice and resolution for any discrimination they have faced in the province.

### Will the Commission notify Immigration, Refugees and Citizenship Canada (IRCC) about my human rights complaint?

No, the Commission will not notify the IRCC that a human rights complaint has been filed. Your complaint is confidential until it reaches a Board of Inquiry. Even when a Board renders a decision of a complaint, the Commission would not normally notify the IRCC of the Board's decision. **Despite this, it is important to note that the Commission cannot prevent a respondent from sharing information about your complaint.** Parties to a complaint are reminded that the complaint is confidential.

### Will filling a human rights complaint have an impact on my immigration status or my permanent residence application?

Filing a human rights complaint should have no impact on your immigration status or your permanent resident application. **However, it is important to consider that the Commission is unable to prevent situations or actions that may result from your filing of a complaint, for example, termination from your job that may impact your immigration status with the IRCC.**

Individuals can file reprisal complaints with the Commission if they are treated unfairly by an employer, housing provider or service provider for filing a human rights complaint, but the Commission does not have the legal power to prevent employers, housing, or service providers from taking any specific action as a result of your complaint.





## **Can temporary foreign workers file a human rights complaint?**

**Yes, temporary foreign workers can file a human rights complaint with the Commission.** Their complaint will be dealt with in the same way as the other complaints filed at the Commission.

## **Can the Commission provide interpretation or translation services to newcomers during the compliance process?**

**The Commission cannot provide interpretation or translation services to complainants.** Individuals requiring interpretation or translation services should reach out to their local settlement or multicultural organization for translation support. For a list of the provincial settlement or multicultural organizations in your region, visit the [New Brunswick Multicultural Council's website](#).

## Appendix A: The Human Rights Commission and Other Related Provincial Government Services in New Brunswick

	<b>New Brunswick Human Rights Commission</b>	<b>WorkSafe New Brunswick</b>	<b>Employment Standards</b>	<b>Ombud New Brunswick</b>	<b>Child, Youth and Senior's Advocate</b>	<b>Residential Tenancies Tribunal</b>	<b>Service New Brunswick</b>
<b>What they do?</b>	Protect people from discrimination in employment, housing, services, publicity, and associations based on 16 protected grounds in the <i>Act</i> (e.g., race, disability, gender, etc.). The <i>Act</i> also protects people from sexual harassment and reprisal.	Assist New Brunswick workers and employers to create safe and healthy workplaces to prevent workplace injuries and occupational diseases and provide compensation benefits and medical treatment services to employees impacted by workplace injuries or harm.	Regulate basic rights of employees related to employment. These include all aspects of wages and compensation, vacations and leaves, hours of work and breaks during work, termination, and layoff procedures, etc.	Investigate administrative complaints against provincial government departments, school districts, regional health authorities, municipalities, etc., The complaints must be related to a department's decisions, actions, or procedures.	Act as the advocate for the rights and interests of children, youth, and seniors, and ensure their rights are protected. They can also investigate complaints, monitor laws and policies, review child, youth, and senior services, inform the public, and make recommendations to government on issues that impact children, youth, and seniors.	Resolve problems or disputes between landlords and tenants related to rent, tenancy, evictions, facilities on rental property, etc.	Provide a wide range of provincial, municipal, and federal government services to the public through in-person, online, and teleservice centers. Services include vehicle registrations, driver licences, Medicare cards, property assessments, birth, death, or marriage certificates, etc.

<p><b>How can they help?</b></p>	<p>If you identify with a protected ground and have experienced discrimination in New Brunswick in one of the areas protected under the <i>Act</i>, you can contact the Commission to learn more about the process and to file a human rights complaint.</p>	<p>If you get injured while doing your job, or develop an occupational illness or disability at work, you can file a claim with WorkSafe and may be eligible for monetary compensation and coverage of treatment for your condition.</p>	<p>If you believe your employment rights under the <i>Employment Standards Act</i>, have been violated, you can file a complaint with Employment Standards. They may investigate your complaint and reach a decision on its merits, i.e., whether you were denied the said employment rights.</p>	<p>If the Ombud’s investigation decides that the complaint was justified and the government department acted wrongly, it can recommend changes to the rule, practice, or procedure that was the subject of the complaint.</p>	<p>If there is an issue with any services, policies, or laws that may negatively impact children, youth, or seniors, the matter can be brought before the Advocate, who may review and investigate it. Based on the investigation, the Advocate can make recommendations for changes and improvements.</p>	<p>If you are a tenant and have an issue that your landlord is not resolving, you can submit an application to the Tribunal. The Tribunal will review your application and provide help in resolving the matter.</p>	<p>You can visit their office or call them for help with any of the government services that they provide.</p>
<p><b>Do you need to have permanent residence or citizenship status to receive their services?</b></p>	<p>No</p>	<p>No. Even if you are not a permanent resident, as long as you are working legally in New Brunswick, e.g., under a work permit, you can file a claim with WorkSafe. However, certain protections are not available to casual employees and “domestic servants”. Farm workers, “menial</p>	<p>No. However, certain workers are not covered under the <i>Employment Standards Act</i>. For example, independent contractors or workers who work in a private home (babysitters, home care workers, or workers hired privately by the homeowner).</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>

		servants”, and fishermen are also excluded from benefits or services in certain situations.					
<b>What does their complaint system look like?</b>	<p>The Commission has powers to review, mediate, and investigate complaints, and to refer them to the Labour and Employment Board. The Board is the agency that can make a final decision on a complaint. When making a decision, the Board has powers to award monetary compensation to complainants for injury to dignity and self-respect and for financial losses, like loss of pay in a job, besides other remedies.</p> <p>For a breakdown of the Commission’s compliance process, please consult section 4.1 of this guide.</p>	<p>You can file a claim for compensation on an official WorkSafe form, describing the nature of your injury or workplace accident. WorkSafe may investigate your claim and based on the available evidence, make a decision whether you should receive compensation or costs. If you disagree with the decision, you have a right to appeal it to the Workers Compensation Appeals Tribunal.</p>	<p>The Director may appoint an Employment Standards Officer to investigate your complaint and determine if your employment rights have been violated. If the investigation determines that the <i>Act</i> was violated, the Director can ask an employer to pay money owing to an employee (e.g., lost wages, vacation pay), direct a person to stop violating the <i>Act</i>, impose an administrative penalty, etc. The decision of the Director can be appealed to the Labour and Employment Board.</p>	<p>After you file a complaint with the Ombud, they will investigate it by gathering information and may hold a hearing to determine if a government department or its officers breached their duty or engaged in misconduct. The Ombud can then issue a report to the relevant department, suggesting measures to prevent similar issues in the future.</p>	<p>If a complaint or petition is filed with the Advocate, the Advocate may mediate on the person’s behalf or investigate the matter. Based on its findings, the Advocate may recommend that changes be made to the relevant department or authority’s policies or rules to remedy the situation. The Advocate can look into both individual complaints and complaints related to systemic issues.</p>	<p>Once you submit your application, a Residential Tenancies Officer will be assigned to your case. The Officer will investigate the issue and try to mediate between you and your landlord. If mediation fails, the Officer will give a decision on the merits of your complaint under the <i>Residential Tenancies Act</i>. If you do not agree with the Officer’s decision, you have a right to appeal it to the province’s Court of King’s Bench.</p>	<p>If you have an issue with one of their services, you can write to them via their online “Contact Us” form, call or email them, or visit their office in person.</p>
<b>Contact Information</b>	<p>Website: <a href="http://www.gnb.ca/hrc-cdp">www.gnb.ca/hrc-cdp</a></p>	<p>Website: <a href="http://www.worksafenb.ca">http://www.worksafenb.ca</a></p>	<p>Website: <a href="http://www.employmentstandards.gnb.ca">www.employmentstandards.gnb.ca</a></p>	<p>Website: <a href="http://ombudnb.ca">Home (ombudnb.ca)</a></p>	<p>Website: <a href="http://nbchildandyouthadvocate.cyanb.ca">NB Child and Youth Advocate (cyanb.ca)</a></p>	<p>Website: <a href="http://rentinginnb.gnb.ca">Renting in New Brunswick (gnb.ca)</a></p>	<p>Website: <a href="http://service.newbrunswick.ca">Service New Brunswick, Canada - SNB.CA</a></p>

Exploring Human Rights in New Brunswick

	Email: <a href="mailto:hrc.cdp@gnb.ca">hrc.cdp@gnb.ca</a>  Tel : 506-453-2301	Tel: 1-800-999-9775	Email: <a href="mailto:EmploymentStandards@gnb.ca">EmploymentStandards@gnb.ca</a>  Tel: 1-888-452-2687	Email: <a href="mailto:ombud@gnb.ca">ombud@gnb.ca</a>  Tel: 506-453-2789	Tel: 506-453-2789	Email: <a href="mailto:irent@snb.ca">irent@snb.ca</a>  Tel: 1-888-762-8600	Email: <a href="mailto:snb@snb.ca">snb@snb.ca</a>  Tel: 1-888-762-8600
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For more information on the *Act* and your human rights in New Brunswick, you can contact the Commission at: (506) 453-2301 or [hrc.cdp@gnb.ca](mailto:hrc.cdp@gnb.ca)

**Address:**  
751 Brunswick Street  
Fredericton, NB  
E3B 1H8

**Mailing Address:**  
Barry House  
P.O Box 6000  
Fredericton, NB  
E3B 5H1

For online complaint forms and more information and resources on human rights in New Brunswick, visit the Commission's website: [www.gnb.ca/hrc-cdp](http://www.gnb.ca/hrc-cdp)