



Special Programs and Human Rights

Did you know? Under Section 14 of the New Brunswick *Human Rights Act (Act)*, employers, housing, and service providers have the option to create programs that give preference in employment, housing or services to certain individuals or groups.

What are special programs?

Special programs are plans, actions or initiatives set up by governments or private organizations to help certain groups access jobs, housing, or services.






These programs exist because some groups in our community have faced barriers and unfair treatment throughout history, and many of these groups still face challenges today. These challenges are often the result of long-standing systems and rules that create disadvantages for some while giving more opportunities to others.

Special programs are designed to fix these inequalities and ensure that everyone has fair access to opportunities, so that groups facing disadvantages can also thrive and contribute to society.

Groups supported by these programs may include

- Women;
- People with disabilities;
- Indigenous communities;
- Racial minorities; and,
- Others who have experienced discrimination.

Some examples include:

-  A scholarship program set up by a university that provides 10% discount in tuition fees to low-income students.
-  A provincial government program that provides funds to government departments for hiring First Nations individuals.
-  A mentorship program that supports women pursuing careers in science and technology.
-  A job placement program that assigns two positions for the placement of Black youth.
-  A program set up by a co-op housing society to provide housing for single mothers or pregnant women in their co-op.

General Characteristics of Special Programs

Special programs are different from the duty to accommodate. The duty to accommodate is a legal responsibility of employers, housing, or service providers to meet the specific needs of persons related to protected characteristics (e.g. physical and mental disability). Special programs, however, are specific initiatives, in addition to regular policies and practices, which are put in place **to help underrepresented groups have equal access to employment, housing, or services.**

Under Canadian law, special programs are known by different names:

1. Affirmative action programs (under Section 15(2) of the *Canadian Charter of Rights and Freedoms*).
2. Employment equity (under the federal *Employment Equity Act*).
3. Special programs (usually mentioned in human rights codes, with some variations across provinces).

These programs are part of Canada's legal system and **aim to support diversity and inclusion, fix past wrongs, and promote equality for everyone.**

Special Programs under the Act



As per Section 14 of the Act, the Commission has the power to approve programs and initiatives aimed at supporting different groups.

➤ **Who can create special programs?** According to the Act, any “person” can design a special program. This includes employers, corporations, housing providers, service providers, trade unions, and other organizations.

➤ **What is the process for approving special programs?** It is not a requirement that a special program be approved by the Commission. However, employers, housing providers, and service providers can apply to the Commission for approval of a special program. The Commission can also approve programs on its own initiative.

If the Commission approves a special program, it has powers to:

- Review the program before and after approval.
- Make changes or set conditions for the program.
- Cancel its approval of the program if the program does not meet the required standards.

Key Characteristics of Special Programs under the Act

➤ **Voluntary participation:** Creating a special program is optional under the Act. However, the Commission encourages organizations to create special programs to promote equality for disadvantaged groups.

➤ **Applicable to various areas:** While Section 14 focuses on employment, special programs can also be created in the areas of housing and services, in both the public and private sectors.

➤ **Pre-approval and benefits to organizations:** Organizations are not obligated to receive the Commission’s pre-approval for their special programs, but doing so has some of the following benefits:

- The Commission offers advice and guidance during the program’s design and implementation.
- Approved programs are protected from human rights complaints, as long as the programs follow the conditions approved by the Commission.

Note: If a program violates the approved terms (e.g. by discriminating against certain groups within the program), it will no longer be protected from complaints of discrimination.

Special Programs and Reverse Discrimination

Special programs aim to help groups who have faced historical disadvantage and barriers. If these programs exclude groups that have not faced such disadvantage, **this exclusion is not considered discrimination.**

What is Reverse Discrimination? So-called reverse discrimination is the argument that a group is being excluded or treated “unfairly” because of a special program. However, Canadian law does not recognize reverse discrimination, and courts have determined that special programs, like hiring initiatives or additional resources for underrepresented groups, are fair and necessary to reduce inequality in our communities.



Do you have questions? Contact the Commission

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The **New Brunswick Human Rights Commission** is a government agency that ensures the human rights of everyone in New Brunswick are protected under the Act. If you want to learn more about special programs under the Act, contact the Commission. The Commission provides free information about your rights and can provide information on filing a complaint.

If you think you have experienced discrimination in New Brunswick, you can file a complaint with the Commission.

You can reach us at:

☎ (506) 453-2301

✉ hrc.cdp@gnb.ca

🌐 www.gnb.ca/hrc-cdp

Learn more about special programs by consulting our guideline on “**Special Programs and the Meaning of Equality and Discrimination**”!

<https://bit.ly/40GH1Pt>

