

**MANITOBA HUMAN RIGHTS COMMISSION
POLICY AND PROCEDURES MANUAL**

POLICY # L-1
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SECTION: Legislation

Effective date: June 14, 2002

SUBJECT: DEFINITION OF DISCRIMINATION

Purpose: This policy is intended to assist in the interpretation of the definition of discrimination contained in section 9 of *The Code*. Where there is any conflict between this policy and *The Code*, *The Code* prevails.

The Commission recognizes that the concepts of 'equality' and 'discrimination' have an elusive quality which sometimes makes definition difficult, and makes the particular context under consideration particularly important. The Commission also adopts the approaches to these concepts that have been articulated by The Supreme Court of Canada from time to time in its interpretation of *Charter* section 15(1) equality rights.

Discrimination occurs when:

1. A distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, as described in section 9 of *The Human Rights Code* has the effect of
 - (a) imposing burdens, obligations, or disadvantages on an individual or group not imposed upon others, or
 - (b) withholding or limiting access to opportunities, benefits, and advantages available to other members of society, and
2. the imposition of the burden or withholding of the benefit occurs in a manner which
 - (a) reflects the stereotypical application of presumed group or personal characteristics, or
 - (b) has the effect of perpetuating or promoting the view that the individual is less capable or worthy of recognition or value as a human being or as a member of our society.

It is necessary to take a purposive and contextual approach to the analysis of a discrimination complaint, bearing in mind the broad purposes of the *Code* as reflected in its preamble, and in the interpretative approach to human rights reflected in Canadian jurisprudence generally.

APPROVED BY:

Chairperson

Date