

Preventing anti-Indigenous discrimination and harassment in retail settings

Fact Sheet



Ontario Human
Rights Commission
Commission ontarienne des
droits de la personne



OFIFC
Ontario Federation of
Indigenous Friendship Centres

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The OHRC does not deal with individual complaints (known as applications).

If you need human rights legal advice or help filing an application with the Human Rights Tribunal of Ontario, contact the [Ontario Human Rights Legal Support Centre](#) at: 416-597-4900 or 1-866-625-5179 to speak with a Human Rights Advisor.

To file an application directly with the [Human Rights Tribunal of Ontario](#) visit their website and follow the instructions for How to file an application.

Learn more about Ontario's [Human Rights System](#).



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Human Rights Commission
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Do you know your responsibilities to prevent discrimination and harassment toward Indigenous people?

The **Ontario Human Rights Commission (OHRC)** and the **Indigenous Human Rights Program** (a partnership between Pro Bono Students Canada (PBSC) and the Ontario Federation of Indigenous Friendship Centres (OFIFC)) co-developed a guide to provide human rights information about anti-Indigenous discrimination in retail settings.

This fact sheet is a companion to this guide and seeks to help duty-holders better understand what anti-Indigenous discrimination and harassment may look like in retail settings and what can be done to prevent human rights violations.

Content warning: This guide deals with topics that may cause trauma to some readers. It includes references to mistreatment of First Nations, Inuit, Métis, and urban Indigenous people, including racial discrimination. Please engage in self-care as you read this material. There are many resources available if you need additional support, some of which are listed on the Ontario Human Rights Commission (OHRC) website, here: <https://www.ohrc.on.ca/en/list-supports>.

1. The Ontario *Human Rights Code*

Ontario's [Human Rights Code](#) (the *Code*) gives everyone the right to be free from discrimination in the areas of employment, housing, facilities and services, contracts, and membership in unions, trade or professional associations based on one or more personal attributes, called protected grounds.

The seventeen protected grounds are:

1. Age
2. Ancestry
3. Citizenship
4. Colour
5. Creed
6. Disability
7. Ethnic origin
8. Place of origin
9. Family status
10. Marital status
11. Gender identity
12. Gender expression
13. Sex
14. Sexual orientation
15. Race
16. Receipt of public assistance (in housing only)
17. Record of offence (in employment only)

Under the *Code*, Indigenous people have the right to be free from discrimination when accessing both public and private services. This includes the right not to be discriminated against or harassed while shopping, based on the protected grounds of race, ancestry, colour, ethnic origin, place of origin, or creed, among others.

Importantly, *Code* protections also apply in cases where an individual is perceived to be a member of a protected group, even if this view is not accurate.

Businesses have an obligation to respond to, investigate, and resolve allegations of discrimination and to ensure that a poisoned environment does not exist for Indigenous customers (as well as others protected under the *Code*).

You should be proactive and prevent discrimination by creating and maintaining safe spaces for Indigenous shoppers and staff alike. Creating a safe space will help you build trust with Indigenous customers, retain Indigenous employees, and prevent human rights violations.

2. What is a poisoned environment?

A poisoned environment is created by **comments or actions that ridicule or insult a person or group protected under the *Code* and cause them to feel that the environment is hostile or unwelcoming**. It violates their right to equal treatment. The actions or comments do not have to be directed specifically at individuals. For example, insulting jokes, slurs, or cartoons that are generally demeaning toward Indigenous peoples all contribute to a poisoned environment for Indigenous people.

To ensure that a poisoned environment does not exist, you may have to not only address discrimination and harassment toward Indigenous customers by both owners and staff, but also by other customers.

3. How can I recognize anti-Indigenous discrimination in my business?

Anti-Indigenous discrimination can take many forms but often results from **racial profiling**, which is any action undertaken for reasons of safety, security or public protection, that relies on stereotypes about race, colour, ethnic origin, ancestry, creed, and/or place of origin to single out an individual for greater scrutiny or different treatment. Racial profiling in itself may not violate the *Code*, but may lead to discrimination or harassment and has damaging impacts on Indigenous and racialized people.

In your business, this may look like **targeted surveillance** by staff or security personnel, including: watching, following, questioning, or searching Indigenous customers, checking receipts or tags, arresting Indigenous customers without appropriate legal authority, or physically removing or asking Indigenous customers to leave due to unfounded suspicions of shoplifting or due to stereotypes or negative attitudes toward Indigenous people.

Discrimination can also occur in the regular operations of a business, for instance if owners, employees, or even other customers: speak to Indigenous customers in a rude, hostile, or suspicious way, direct racial slurs and/or become physically violent toward them, deny or provide slow service to them, express negative or stereotypical views about them, or sell merchandise that contains derogatory terms and/or offensive imagery related to Indigenous people.

Lastly, discrimination can occur when a First Nations person **tries to use their Indian Status card** to receive a partial tax exemption at the point-of-sale and/or as a form of identification.

Indeed, many people, including business owners and employees in the retail industry, are uninformed about Status cards. You or your staff may be unaware that Status cards are a valid form of identification, that Status does not expire, and that specific procedures should be followed when providing a tax exemption at the point-of-sale.

Not providing First Nations customers with the option to receive the tax exemption they are entitled to at the point-of-sale is likely not discrimination under the *Code* on its own, since vendors do not have a legal obligation to provide the tax exemption at the point-of-sale per section 8(1) of O. Reg 317/10.

However, ***Code*-related discrimination may still occur** when a First Nations customer presents their Status card if business owners and/or employees: make race-related comments, express negative attitudes about Indian Status (including through body language), act rudely toward a First Nations customer after a tax exemption was requested, or refuse to accept a Status card due to negative views about Indigenous people and their rights.

It is worth noting that other valid forms of identification may at times be used by Indigenous people to access services: for instance, a First Nations or Inuit individual may use their NHIB client identification number to pick up pharmacy prescriptions. In such cases, the same considerations apply.

It is your obligation under the *Code* as a service provider (whether you are an owner, an employee, or a contractor) to be aware of these behaviors, address them if they occur, and prevent them from happening in the first place.

4. What can I do?

You can **foster an inclusive and safe environment in your business**, and build greater respect for and compliance with the *Code*, by:

- Reviewing internal policies, procedures, and contracts (including with third-party vendors) to ensure there are no unintended, adverse impacts on Indigenous customers.

- Developing transparent procedures for both staff and customers to file complaints and provide effective remedies if an Indigenous customer is discriminated against or harassed, including by a third-party vendor or other customers.
- Ensuring your employees and/or colleagues are fully aware of their roles and responsibilities to uphold the *Code* and adhere to its principles in the workplace.
- Recruiting and retaining Indigenous staff while ensuring a safe working environment free from discrimination.
- Training your employees on diversity, equity, anti-discrimination, and de-escalation techniques, as well as on Indigenous cultural safety.
- Providing training in response to Call to Action 92 from the Truth and Reconciliation Commission.
- Requiring staff to review OHRC and other anti-racism training modules and reports about anti-Indigenous racism and Indigenous cultural safety, including this fact sheet.
- Instructing staff, including third-party vendors such as security guards, not to engage in targeted surveillance against Indigenous customers.
- Incorporating non-discrimination indicators into performance review.
- Providing a tax exemption at the point-of-sale if you do not already offer it, or training staff to refer First Nations customers to the Ontario Ministry of Finance website, which explains the mail-in-rebate option (many First Nations people are not aware that an alternative option is available when a vendor does not offer an exemption at the point-of-sale).
- Training staff on Indian Status, the validity of Status cards as personal identification, the availability of tax exemptions at the point-of-sale, and the appropriate procedures to follow when providing the exemption. This includes ensuring that employees are aware that Status does not expire.
- Placing visible signage that clearly states that Status cards are accepted as identification and that Status customers are welcome to inquire about tax exemptions.

- Training staff to be respectful and sensitive to Indigenous customers when Status is discussed.
- Avoiding selling merchandise that contains derogatory terms related to Indigeneity, offensive imagery including names and logos of sports teams, and Indigenous-themed Halloween costumes. These items undermine the dignity of Indigenous people and poison the environment in a way that discourages or prevents them from equitable access to your service.
- Avoiding selling products that have been culturally appropriated as they can also create poisoned environments for Indigenous customers.

This fact sheet is not legal advice. For more information, including policies, brochures, and e-learning tools, visit the OHRC website: <https://www3.ohrc.on.ca/en>