



## Section 15 Equality Rights

### Mental or Physical Disability

**Student Material:** on page 10

As the Ontario Human Rights Code indicates, “Disability should be interpreted in broad terms. It includes both present and past conditions, as well as subjective component based on perception of disability.” This includes but is not limited to a malformation or disfigurement caused by a bodily injury, a birth defect, or illness, and also includes conditions brain injuries, diabetes, blindness, deafness, speech impediments, and many other physical disabilities. The Charter explicitly includes mental disabilities, which includes mental illness, developmental disabilities, learning disabilities, and a wide range of other mental disabilities.<sup>i</sup>

The Charter emphasizes the importance of protecting people with disabilities; however, the original draft of section 15 did not include persons with disabilities because it was believed that this would be too costly for the government to accommodate the wide variety of physical and mental disabilities.<sup>ii</sup>

However, the final version of the Charter does include mental and physical disabilities. Section 15(1) of the Charter prohibits governments from making laws that disadvantage people with disabilities. Section 15(2) ensures that government can create laws and programs that help people with disabilities.

If Canada Post stopped delivering the mail door-to-door, how would that affect persons who are unable to access community mailboxes because of a physical disability? Do you think this is an appropriate policy, or is it discriminatory?<sup>iii</sup>

How does your school help students overcome any physical or mental challenges they may have?<sup>iv</sup> For example, some schools have mandatory gym class without an alternative program; does this discriminate against people with disabilities who are unable to fully participate in gym? Are there ways that your school can help reduce discrimination against students with disabilities?

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<sup>i</sup> Language is taken from section 10 of the Ontario Human Rights Code and the Policy and Guidelines on Disability and the Duty to Accommodate webpage:

<http://www.ohrc.on.ca/en/policy-and-guidelines-disability-and-duty-accommodate/2-what-disability>

See also the *Diagnostic and Statistical Manual of Mental Disorders*. It was not until the 20<sup>th</sup> century that North Americans began to define and catalogue mental disabilities in the same way as physical disabilities.



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- ii See Ravi Malhotra “[Has the Charter Made a Difference for People with Disabilities?](#)” Currently, however, rights of people with mental and physical disabilities are protected by human rights legislation around the world. In 2006, the United Nations agreed on the *Convention on the Rights of Persons with Disabilities*, which solidified the global recognition of rights for people with disabilities.
- iii A law may have to make “reasonable accommodation” for those who are discriminated against by otherwise neutral laws. This means that laws are not required to make accommodations where doing so would be “unreasonable”. Guidelines for this are set out in the Ontario Human Rights Commission *Guidelines on Assessing Accommodation Requirements for Persons with Disabilities*. A current argument under this line of reasoning is that the reduction in door-to-door postal service is discriminating against people with disabilities who are unable to use community mailboxes.
- iv Other examples include:
- Extra time on tests for persons with learning disabilities
  - A sign language interpreter for deaf students

A critical point in these questions is that, in general, persons with mental and physical disabilities face discrimination from policies that are made for able-bodied people.

For information on learning disabilities in the classroom see:

[http://www.bced.gov.bc.ca/specialed/docs/learning\\_disabilities\\_guide.pdf](http://www.bced.gov.bc.ca/specialed/docs/learning_disabilities_guide.pdf)

Here you can find a helpful resource to guide you to removing the barriers for persons with disabilities in your school

[http://www.togetherwerock.com/sites/default/files/Draper\\_AccessSchool.pdf](http://www.togetherwerock.com/sites/default/files/Draper_AccessSchool.pdf)

For classroom activities for disability awareness see: <http://www.vcu.edu/partnership/C-SAL/downloadables/PDF/DisabilityAwarenessPacket.pdf>