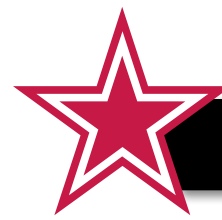




New Brunswick LGBTQ Inclusive Education Resource

INTRODUCTION



INTRODUCTION



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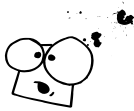
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GETTING STARTED

This resource is intended to support students, teachers, administrators, parents/guardians and districts to develop and maintain safe school communities. In particular, its goal is to provide information and answer questions to assist in creating LGBTQ inclusive schools and classrooms at both the elementary and secondary levels. In middle and high schools, this includes information and guidance for the formations of GSAs.

Support for LGBTQ inclusive education is readily available. Local, provincial and national resources are included in this document.



If you would like to know more about legislation and policy as they relate to real life experiences in school settings in New Brunswick see the [Questions & Answers](#) section, as well as the [New Brunswick Policies and LGBTQ Resources](#) section. If you have questions about organizations, programmes, and resources available in your area or nationwide, have a look at the [New Brunswick Policies and LGBTQ Resources](#) section.

If you are an educator, check out the [Information & Resources for Educators](#) section of this resource. If you are a member of an Education Support Services team, check out the [Information and Resources for ESST](#) section. If you are an administrator, check out the [Information and Resources for Administrators](#) section. There is also a section for parents and guardians.

An Executive Summary of Egale’s Final Report on the First National School Climate Survey: *Every Class in Every School* is also included in the [Information and Resources for Administrators](#) section or on-line at <http://MyGSA.ca/YouthSpeakUp>.



WHAT DOES LGBTQ MEAN?



This acronym can mean different things to different people, but it is generally understood to stand for “lesbian, gay, bisexual, trans (transgender, transsexual, trans-identified), Two Spirit, queer, and questioning” or some variation of this. Check out the Terms & Concepts section in this resource or on the MyGSA website for various definitions of each of these words.



I've seen a number of different combinations of letters and I don't know which ones to use! I don't want to exclude anyone or be disrespectful, but how can I explain the proper usage when I don't know what to say myself? What if someone asks me what the correct thing to say is?



Although it’s true that many people opt to use different words to describe themselves, saying either LGBT or LGBTQ is widely accepted in North America (even though it is recognized that these expressions are not necessarily all-encompassing).

For example, it is also common to include both an “I” for intersex and an “A” for ally. Some people also choose to duplicate all of the letters that can represent more than one word because it has the visual/verbal effect of demonstrating how very many different sexual orientations and gender identities there actually are. The ones already mentioned here would look like this: LGBTTTTQQIA or LGBTTT2QQIA (where the “2” stands for Two Spirit).



Throughout this document, the acronym LGBTQ references all people with diverse sexual orientations and/or gender identities, including those who identify as lesbian, gay, bisexual, trans, Two Spirit, queer or questioning. In addition, the acronym LGBTQ will commonly be used except when an alternative acronym appears in a direct quote or an excerpt from another resource.

It is an excellent question and this is one of the reasons why incorporating LGBTQ matters and inclusive language into curriculum is vital. Sexual orientation, gender identity, and gender expression are parts of everyday life and everyone needs to know what language to use in order to discuss them appropriately and respectfully.

In addition to professional development, many educators who are unversed in LGBTQ matters may find it beneficial to do independent research. The MyGSA website has a section for educators, including resources and a discussion forum.



WE HOPE THAT YOU FIND THIS RESOURCE HELPFUL, WHETHER YOUR AIM IS...

to work towards changing your school or school district policy to explicitly address sexual orientation, gender identity, and gender expression (look under “Activities” in the GSA Guide);

to start your school’s first-ever GSA: Good luck and keep us posted by registering on MyGSA.ca!

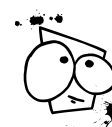
to include LGBTQ material in your school’s curriculum (see the GSA Guide section for suggestions);

Please feel free to send comments or feedback to mygsa@egale.ca

Q: *Wouldn’t it be easier just to choose one word or one set of letters and be done with it?*

A: Maybe, but that too would be problematic. Language is always evolving—just think about all of the acronyms now in common usage as a result of new technologies such as texting. And because the words relating to LGBTQ matters are identity-specific, it is particularly important to be respectful and aware of appropriate and relevant usage.

Many people choose to use the word “queer” for this very reason. A long list of letters can be quite a mouthful! However, this too has its problems. Although the word “queer” has generally been reclaimed in contemporary usage, historically the word has had negative connotations.



THIS IS A GREAT TOPIC FOR CLASSROOM DISCUSSION: after reading through the **Terms & Concepts** section in this resource or on the **MyGSA website**, try opening up this dialogue in your class or at a **GSA meeting!**



ABORIGINAL PERSPECTIVES ON DIVERSITY OF SEXUALITY AND GENDER IDENTITY



At the onset of the European colonization of the Americas, the cultural norms and social frameworks of many Indigenous Peoples were dramatically altered. Today, Indigenous Peoples are in the process of reclaiming traditional knowledge and practices. The process of reclaiming cultural identity is apparent in the re-naming of Indigenous communities using words from their own languages. While colonial-era English names may still be used interchangeably today, this re-naming represents the beginning of a new era in indigenous empowerment. Aboriginal gays, lesbians, bisexuals and transgender people have also embraced this approach and embarked on a journey of re-discovery by adopting the term, Two Spirit. (McLeod, 2013)

Traditional Two-Spirited History and Roles

Before European contact and colonization, many Indigenous groups throughout North America respected and honoured diverse gender roles and identities and believed that all people were part of the sacred web of life and community¹. The European concepts of sex and gender roles were not shared by Indigenous Peoples at this time, as some of these cultures allowed for at least six alternative gender styles. Historically, sexual and gender diverse peoples of Turtle Island thrived for thousands of years.² These traditions and understandings were most common among the Lakota, Ojibwe, Blackfoot, Cheyenne, Mojave, Navajo and Cree peoples, but shared by many others. However, it is important to recognize that in spite of contact and many similarities, traditions varied greatly among Indigenous Peoples in North America and that a few cultures may have not had traditions and understandings related to diverse sexualities and gender identities and roles.

The diversity of sexuality, gender identities, and roles was reflected in First Nations languages. Indigenous Peoples of North America had their own specific words or terms to refer to people with diverse sexualities, gender identity, and cultural roles. Some examples are the Anishnabe term Agokwe, the Dinè term nadleeh, and the Cree terms ayekkwé and a:yahkwew.³

The traditions and understandings of the diversity of sexuality, gender identities and roles continued to survive in North America to as late as 1930 among the Klamath people in the Pacific Northwest. However, the aggressive and often forced assimilation experienced by Indigenous Peoples after European contact worked to displace understandings, practices and teachings around sexuality, gender, and relationships, replacing them with Judeo-Christian or Euro-Canadian perspectives.

Reclamation and Contemporary Two-Spirit Understandings

The term Two Spirit was shared at the 3rd annual Intertribal First Nations/Native American gay and lesbian conference in Winnipeg in 1990⁴. Two Spirit is an indigenous term for indigenous people who identify as gay, lesbian, bisexual, and trans. The name came in a vision to one of the gathering participants prior to the event and ceremonies were held during the conference to acknowledge the arrival and acceptance of this name

One of the local Elders, who is an Ojibwe Language Specialist, informed participants that they become “ritual” brothers and sisters through ceremony and when a person receives a spirit-name it signifies that they have a spirit-guide, a gift, a purpose, and a destiny. Two Spirit is a name now embraced by many LGBTQ Indigenous People of Turtle Island. It is unique to North American Indigenous LGBTQ people because Indigenous Peoples connections to this land and ecology are cultural, historical, and familial (McLeod, 2013).

Thus, “Two Spirit” reclaims the rich and diverse traditions and understandings of First Nations peoples, including some that may have been lost by colonization, Christianization and assimilation. It is a pan-historical as well as a “pan-tribal” concept and term. For many LGBTQ Indigenous People, identifying as a two-spirited person is a form of liberation from the identities that were imposed by other cultures and movements. Essentially it means that LGBTQ people have the ability to reflect the male and female energies (genders and sexes) and forces that create life (eg. humans, animals and plants) and that diversity within this realm is considered sacred and a component of the natural order. (McLeod, 2013)

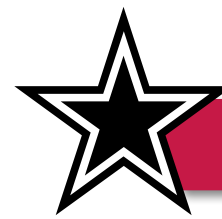
Today an ever increasing number of First Nations, Inuit, Métis and other Indigenous LGBTQ people describe themselves as Two Spirit. However, it is important to recognize that while the term Two Spirit has been embraced by many First Nations peoples to separate their interests from Western-imposed concepts of gender and sexual identity, the term is not used universally or consistently across Indigenous communities in North America.⁵ It is an empowered identity that emerged within the context of sustained racism, homophobia and sexism. For many Indigenous People, their Two Spirit identity reclaims their authority to define who they are and it aligns with their worldview, distinct cultures, histories and ways of being.⁶

Developed In consultation with Albert McLeod, Two-Spirited People of Manitoba Inc.

- ¹ Lester B. Brown (Ed). (1997). Two-spirit People: American Lesbian Women and Gay Men. New York: Haworth Press.
- ² Jill Alaers. (2010). Two-Spirited People and Social Work Practice: Exploring the History of Aboriginal Gender and Sexual Diversity. Critical Social Work, 2010, Volume 11, No. 1
- ³ Jill Alaers. (2010). Two-Spirited People and Social Work Practice: Exploring the History of Aboriginal Gender and Sexual Diversity. Critical Social Work, 2010, Volume 11, No. 1 & Adams, H. L., & Phillips, L. (2009). Ethnic related variations from the Cass model of homosexual identity formation: The experiences of two-spirit, lesbian and gay Native Americans. Journal of Homosexuality, 56(7), 959-976.
- ⁴ Jill Alaers. (2010). Two-Spirited People and Social Work Practice: Exploring the History of Aboriginal Gender and Sexual Diversity. Critical Social Work, 2010, Volume 11, No. 1
- ⁵ NASTAD. (2013).ISSUE BRIEF: NATIVE GAY MEN AND TWO SPIRIT PEOPLE, HIV/AIDS AND VIRAL HEPATITIS PROGRAMS AND SERVICES. http://nace.samhsa.gov/WebImages/file/TwoSpirit/ISSUE%20BRIEF_TWO-SPIRIT_NASTAD.pdf
- ⁶ Alex Wilson. (2008). Two-spirit Identity: Active resistance to multiple oppressions. Canadian Race relations Foundation. Directions, Vol. 5, No. 1. http://www.crr.ca/images/stories/pdf/directions/directionsVol5No1-Sys_Racism-AboriginalPeoples.pdf

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- Jim Elledge. (2002). Gay, lesbian, bisexual, and transgender myths from the Arapaho to the Zuñi: An Anthology. Volume 13 of American Indian studies. Peter Lang. http://books.google.ca/books?id=ue3WAAAAMAAJ&source=gbs_similarbooks
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- Brian Joseph Gilley. (2006). Becoming Two-Spirit: Gay Identity and Social Acceptance in Indian Country. University of Nebraska Press. *Becoming Two-spirit: Gay Identity And Social Acceptance in Indian Country* - Brian Gilley - Google Books
- Hamish. (2009). The Disappearance of the Two-Spirit Traditions in Canada. The drummer's Revenge Blog. <http://thedrummersrevenge.wordpress.com/2009/08/11/the-disappearance-of-the-two-spirit-traditions-in-canada/>
- Maddalena Genovese & Davina Rousell (2011).The Safe and Caring Schools for Two Spirit Youth: A guide for teachers. Society for Safe and Caring Schools & Communities and The Two Spirit Circle of Edmonton Society http://nace.samhsa.gov/WebImages/file/TwoSpirit/TWO-SPIRIT_YOUTH_A_STUDENT-TEACHER_GUIDE.pdf
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- NASTAD. (2013).ISSUE BRIEF: NATIVE GAY MEN AND TWO SPIRIT PEOPLE, HIV/AIDS AND VIRAL HEPATITIS PROGRAMS AND SERVICES. http://nace.samhsa.gov/WebImages/file/TwoSpirit/ISSUE%20BRIEF_TWO-SPIRIT_NASTAD.pdf



WHAT IS INTERSECTIONALITY?

Doris O'Brien-Teungs "Doe". (2008). Two Spirit Women, 2nd Edition © 2-Spirited People of the 1st Nations <http://www.2spirits.com/Two%20Spirit%20Women.pdf>

Rainbow Resource Centre. Two-Spirit People of the First Nations, , <http://www.rainbowresourcecentre.org/wp-content/uploads/2011/09/TwoSpirit.pdf>

Will Roscoe: (2000). The Changing Ones, Third and Fourth Genders in Native North America. Palgrave Macmillan.

Will Roscoe. (1991). The Zuni Man-Woman. University of New Mexico Press

Will Roscoe's Website: Who are the Two-spirits? Two Spirit Q & A <http://www.willsworld.org/twospiritq-a.html>

Richard C. Trexler. (1995). Sex and Conquest : Gendered Violence, Political Order and the European Conquest of the Americas. Cornell University Press.

Two-Spirited People of Manitoba Inc. <http://www.twospiritedmanitoba.ca/>

Two-Spirited People of the First Nations (Toronto-based), a.k.a. [2spirits.com](http://www.2spirits.com)

Two-Spirit Voices (newsletter), National Native American AIDS Prevention Center, Oakland, California, Issue 1, April 1997. Available at: www.nnaapc.org/tsv/tsv01.html

Two-Spirit People, Wabano Centre for Aboriginal Health, Ottawa, Ontario, 2000.

Two-Spirited Youth Program, Urban Native Youth Association, Vancouver, 2001. www.unya.bc.ca/Two-Spirited.htm

2-Spirited People of the 1ST Nations. (2008)Our Relatives Said: A Wise Practices Guide, Voices of Aboriginal Trans People <http://www.2spirits.com/2Spirits%20Transgender%20Training%20Manual.pdf>

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Walter L. Williams. (1998). The Spirit and the Flesh: Sexual Diversity in American Indian Culture. Beacon Press, Boston, MA.

Alex Wilson. (2008) Two-spirit Identity: Active resistance to multiple oppressions. Canadian Race relations Foundation. Directions, Vol. 5, No. 1. http://www.crr.ca/images/stories/pdf/directions/directionsVol5No1-Sys_Racism-AboriginalPeoples.pdf

People have many identities that correspond to their race, class, physical and mental ability, religion, sexual orientation, gender identity, etc. These different identities don't stand alone; together they impact a person's reality as well as experiences of discrimination. We call this "intersectionality."

Although the word intersectionality is a more recent term, it should be noted that for centuries, Aboriginal peoples have been using a holistic approach to health and wellbeing. Indeed '[...] for Indigenous Peoples living in Canada and around the world, the inter-relationships between the physical, mental, spiritual and emotional aspects of being are integral to individual and community health' (National Aboriginal Health Organization, 2008). Intersectionality takes a holistic approach because it involves looking at things together, for example, viewing race and gender together, as opposed to viewing them in isolation (Simpson, 2009).

Because of our different identities, there are many ways a person might experience discrimination. A white lesbian's experiences will be different than those of a lesbian who is First Nation, or a lesbian who is First Nation and who also has a disability. They may all experience homophobia, but the lesbian who is First Nation may also experience racism, while the lesbian who is First Nation and who has a disability may experience homophobia, racism and ableism. Intersectionality offers a perspective that takes into account the full range of identities and circumstances facing people (Simpson, 2009).

" An Overview of Traditional Knowledge and Medicine and Public Health in Canada. Ottawa, ON: National Aboriginal Health Organization,.,2008. , P. 3. 3 May 2013 <<http://www.naho.ca/publications/tkOverviewPublicHealth.pdf>>.

Simpson, Joanna. Everyone Belongs. A Toolkit for Applying Intersectionality Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2009. 3 May 2013 <http://criaw-icref.ca/sites/criaw/files/Everyone_Belongs_e.pdf>.

"Definition of Social Disadvantage." Manitoba Human Rights Commission, 3 May 2013 <http://www.manitobahumanrights.ca/publications/policy/policy_definition-of-social-disadvantage.html>.



WHAT IS A GSA?

The term GSA stands for Gay-Straight Alliance. Although the exact function of such clubs varies from school to school, GSAs are generally considered to be any student groups concerned with LGBTQ matters. Sometimes GSAs serve as support groups for LGBTQ students, allies, and youth with LGBTQ parents/guardians or other family members. For more extensive definitions, see the *Terms & Concepts* section in this resource or on *MyGSA.ca*.



GSAs are generally considered to be any student groups concerned with LGBTQ matters.

Take a look at the *GSA Directory* on *MyGSA.ca*. You might notice that a number of the groups have alternative names, such as Rainbow Alliance, QSA (Queer-Straight Alliance), or Pride or PRYDE (Please Respect Your Diverse Environment) Club. Many student groups opt to use different names because the word “gay” is not as inclusive as they would like. It doesn’t necessarily refer to lesbians, bisexuals, or Two Spirit people and gender identity and gender expression are not explicitly encompassed by the expression GSA.

This is an important consideration and it would make an excellent topic of discussion in the forums on *MyGSA.ca*, in a GSA meeting, or in your classroom!



GAY-STRAIGHT ALLIANCE

See the *Terms & Concepts* section in this resource or on *MyGSA.ca*.

GSAs in New Brunswick:

The following are a list of New Brunswick schools with active GSAs at the time of printing.

Riverview High School
Saint John High School
Woodstock High School
École L’Odysée
Moncton High School
Fundy High School
Nackawic High School
Grand Manan High School
Sir James Dunn Academy
Minto Memorial High School
Oromocto High School
Ecole Ste-Anne
St. Stephen High School
Leo Hayes High School
Tobique Valley High School
Sir James Dunn Academy
St. Stephen Middle School
Harvey High School
Leo Hayes High School
Rothesay High School
Bathurst High School
St. Mary’s Academy
Fredericton High School
Harbourview High School
McAdam High School





LGBTQ AWARDS, SCHOLARSHIPS, BURSARIES

PROVINCIAL

New Brunswick Human Rights Award

The Human Rights Award was established by the Human Rights Commission in 1988 to mark the 40th anniversary of the Universal Declaration of Human Rights.

Through this award, the Commission recognizes individuals and organizations in New Brunswick that have shown outstanding effort, achievement and/or leadership **on a volunteer basis** in the promotion of human rights and equality, and as such serve as examples to all New Brunswickers.

For more information, please visit: <http://www.gnb.ca/hrc-cdp/01-e.asp#Eli>

NATIONAL

Lambda Foundation Scholarships <http://www.lambdafoundation.com>

Lambda Foundation is a Canadian registered charity. Its mission is to create graduate and undergraduate university scholarships in research pertaining to lesbian, gay, bisexual, transgender and intersex (LGBTI) peoples in all their diversity and to reward LGBTI/straight alliance and human rights leaders in our high schools. Lambda aims to:

- create lasting and worthy legacies for today's and future generations of scholars researching LGBTI issues
- advance education in human rights, especially LGBTI rights
- support and draw attention to merit among LGBTI people as fine role models
- build bridges of understanding among LGBTI people and other equality-seeking groups in Canada

Lambda Foundation is governed by a national Board of Directors who oversee the scholarships and strive to strengthen our existing scholarship endowments and create new awards in partnership with our donors and educational institutions across the country.

Currently, Lambda Foundation scholarships are available at the following institutions:



For a more comprehensive listing, and for information about Egale's GSA Bursary, check out [MyGSA.ca!](http://MyGSA.ca)



University of Guelph
Lambda Foundation Scholarship in LGBT Studies
<http://www.uoguelph.ca/registrar/calendars/graduate/current/pdffiles/gradawards.pdf>
awards@registrar.uoguelph.ca

University of Manitoba
Lambda Foundation for Excellence—Les McAfee Memorial Award
<http://webapps.cc.umanitoba.ca/gradawards/index.asp>
awards@umanitoba.ca

University of British Columbia, St Paul's Hospital/Providence Health Care
Dr. Gary Gibson Lambda Foundation Award
Contact: Nstrydom@providencehealth.bc.ca

University of Victoria
Candis Graham Writing Scholarship, Lambda Foundation Fund
<http://registrar.uvic.ca/safa/bursaries/termsofawards/#writing.html>
fnaid@uvic.ca

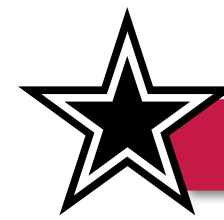
Mark S. Bonham Scholarship for Queer Studies in Film and Video

The Mark S. Bonham Scholarship is available to Canadian citizens or landed immigrants who identify as lesbian, gay, bisexual, transsexual, transgendered or intersex and are pursuing undergraduate studies full-time in the fields of film and/or video that relate to the cultural expression of lesbians, gay men, bisexuals, transgender/transsexual and/or intersex individuals and/or educate the mainstream community about LGBTTI lives and/or issues.
<http://www.insideout.on.ca/festival/scholarship.htm>



The LGBTQ+ Student Award

This student award is available to students entering first year programs at any of the University of Toronto campus locations. The Selection Committee shall look primarily for outstanding volunteer contributions to creating change on campus or in the community through LGBTQ+ community service and/or activism.
<http://www.sgdo.utoronto.ca/Students.htm#LGBTOUT%20Student%20Award>



The Mark S. Bonham Centre for Sexual Diversity Studies

University College, the founding college of the University of Toronto, offers several scholarships and awards specific to the LGBTQ community and studies. For further information see:

<http://www.uc.toronto.ca/scholarships-awards-1>

THE POINT FOUNDATION FOR LGBTQ STUDENTS

Point Foundation is an American organization which provides financial support, mentoring, leadership training and hope to meritorious students who are marginalized due to sexual orientation, gender identity or gender expression. Point Foundation scholarships are available to all students; however, they can only be used at educational facilities in the United States.

<http://www.thepointfoundation.org/index.html>

Jubran v. Board of Trustees, School District No. 44, (2005), British Columbia Court of Appeal

Azmi Jubran, was a British Columbia high school student who was perceived to be gay and was subjected to homophobic bullying. The school staff encouraged him to report each incident and diligently investigated, warned, detained, suspended and/or met with the parents of the students who engaged in homophobic bullying behaviours. The ad hoc, case-by-case approach stopped repeat offenses (for the most part) but did not prevent new homophobic incidents at the hands of different individuals.

The British Columbia Human Rights Tribunal found that school district had been remiss in that it had failed to:

- address homophobia and homophobic harassment with students generally
- offer guidance (on anti-homophobia education) to the school
- provide adequate tools for school staff (policy, curriculum, resource guides)
- deliver training
- consult with experts

Ross v New Brunswick School District No 15, 1996, Supreme Court of Canada.

For several years, teacher Malcolm Ross publicly made racist and discriminatory comments against Jews during his non-teaching time. His writings and statements communicating anti-Semitic views included books, letters to a local newspaper, and a television interview. A Jewish parent filed a complaint with the New Brunswick Human Rights Commission, alleging that the School Board, which employed Ross as a teacher, violated section 5(1) of the Human Rights Act by discriminating against him and his children in the provision of accommodation, services or facilities on the basis of religion and ancestry.

In its ruling, the Supreme Court found that:

- “In order to ensure a discrimination-free educational environment, the school environment must be one where all are treated equally and all are encouraged to fully participate.
- ...it is not sufficient for a school board to take a passive role. A school board has a duty to maintain a positive school environment for all persons served by it and it must be ever vigilant of anything that might interfere with that duty.
- The importance of ensuring an equal and discrimination free educational environment, and the perception of fairness and tolerance in the classroom are paramount in the education of young children. This helps foster self-respect and acceptance by others.”

Kempling v. The British Columbia College of Teachers, 2005, British Columbia Court of Appeal

In 2001, Christopher Kempling, a teacher and school counsellor in Quesnel, British Columbia, was cited for professional misconduct as a result of a series of homophobic letters and articles he wrote to a local newspaper. In 2002, the disciplinary committee of the British Columbia College of Teachers (BCCT) heard the citation of unprofessional conduct. The panel ruled Kempling's writings to be discriminatory and he was found guilty of conduct unbecoming a member of the BCCT. The Panel recommended that Kempling's teaching certificate be suspended for one month. Kempling appealed the decision to the Supreme Court of British Columbia, contending procedural unfairness and infringement of his rights under the Canadian Charter of Rights and Freedoms. In 2005, the British Columbia Court of Appeal sided with the college and upheld Kempling's suspension.

Willow v. Halifax Regional School Board, Dr. Gordon Young and John Orlando, 2006, Nova Scotia Human Rights Commission

Lindsay Willow, a physical education teacher at Halifax West High School, was accused of inappropriate sexual behaviour with a female student. Two male teachers saw Willow and Nadia Ibrahim, a then-17-year-old student, leaving the locker room washroom together.

The teachers reported the incident to the school's principal, as being suspicious sexual misconduct. The principal, without speaking with Willow or Ibrahim, called the police, who came to the school to conduct an investigation.

The police found no evidence of wrongdoing, and dismissed the incident. However, during the investigation, Willow was asked directly by the principal, in the presence of the police officers, if she was a lesbian. As a result, she was required to “out” herself.

Although the police dismissed the incident, Willow complained that from that time onwards the principal and the school board continued to be suspicious of her and treated her differently because of her sexual orientation, causing further damage to her reputation and position. In 2001, she complained to the Nova Scotia Human Rights Commission for discrimination based on sexual orientation. Her case was heard in June 2006.

The Human Rights Tribunal found that the school board did not act properly and owed Ms. Willow a full, written statement exonerating her from any suggestion of wrongdoing and apologizing for the great distress they caused her. The Board was ordered to provide Ms. Willow with a full written letter of exoneration and apology. Further, the respondents were ordered to pay Ms. Willow the sum of \$27 375.

The Corren Agreement,

In 1999 and again in 2004, Peter and Murray Corren appeared before the British Columbia Human Rights Tribunal to express concern that British Columbia public schools failed to include information about sexual orientation and gender identity in the curricula. The Corren's held that this lack of representation amounted to systemic discrimination. In 2006 the provincial government negotiated an agreement with the Correns in which the province committed to a review of the curricula to ensure respect for diversity with respect to sexual orientation and gender identity. Additionally, a grade 12 social justice course would be developed that would include sexual orientation and gender identity issues. The agreement stipulated that the Correns would be consulted about the section of the new course on sexual orientation and gender identity as well as more broadly about inclusion and respect for diversity with respect to sexual orientation and other grounds in the broader school curriculum. The agreement also stated that when curriculum documents were reviewed, the government must solicit feedback from organization or groups, identified by the Correns, "with expertise in sexual orientation, homophobia, and other issues of inclusion and diversity in the curriculum."

Trans Legal Cases

Every provincial and territorial government in Canada has a human rights code, including the federal government. These codes list grounds under which people in Canada may not be discriminated, such as race, sex and sexual orientation. Until recently, most jurisdictions in Canada did not include gender identity as a protected ground. In 2004, the Northwest Territories became the first federal, provincial or territorial jurisdiction to explicitly prohibit discrimination against trans people by amending its *Human Rights Act* to include gender identity. It remained the only Canadian jurisdiction to do so until 2012, when Manitoba added gender identity to its *Human Rights Code*, and Ontario and Nova Scotia added both gender identity and gender expression. Since then, Newfoundland and Labrador and Prince Edward Island have each amended their provincial human rights legislation to include gender identity and gender expression. In these provinces, claims of discrimination on the basis of gender identity may be filed in the same way as any other discrimination claim.

In other provinces and territories, legislatures have not yet passed bills that would explicitly add protections for trans people to their human rights codes. However, statutory human rights agencies in these provinces have other ways of recognizing discrimination based on gender identity, such as recognizing the links between analogous grounds. For example, before Ontario passed legislation to add gender identity and expression to its human rights code, decisions at the Ontario Human Rights Tribunal allowed for recognition of gender identity through the grounds of sex or disability. These decisions are important because courts recognize prior decisions as evidence when considering a new claim. Although they have not all had similar landmark decisions, most other provinces and territories already acknowledge gender identity as a form of sex discrimination on their websites or in publications by their human rights bodies.



The Canadian Human Rights Tribunal held in *Kavanagh v. Canada (Attorney General)*, 2001 CanLII 8496, 41 C.H.R.R. D/119 (C.H.R.T.) that discrimination on the basis of “transsexualism” is discrimination on the basis of sex or disability. The Canadian Human Rights Commission’s FAQ page for complaints now explicitly recognizes that gender identity is an aspect of gender to be recognized within the federal code. A bill that would explicitly add gender identity to the federal code (C-279) has passed the House of Commons and is now under Committee review in the Senate.



In a series of three 1999 rulings, the British Columbia Human Rights Tribunal held that discrimination against persons because of their gender identity is sex discrimination (*Ferris v. Office and Technical Employees Union, Local 15*, (1999) 36 C.H.R.R. D/329 (B.C.H.R.T.), *Mamela v. Vancouver Lesbian Connection*, (1999) 36 C.H.R.R. D/318 (B.C.H.R.T.), *Sheridan v. Sanctuary Investments Ltd*, (1999) 33 C.H.R.R. D/467). *Sheridan* also held that it constituted a form of discrimination based on disability.

Saskatchewan has published a guide on the human rights of transgender people, where it states that gender identity discrimination is a form of sex discrimination, as do Alberta, Yukon, and New Brunswick. Quebec defines sex discrimination as discrimination “because you are a woman, a man or a transsexual.”



A number of court cases across Canada have begun to recognize the many forms that discrimination based on gender identity can take. For example, in April 2012, the Ontario Human Rights Tribunal found in *XY v. Ontario (Government and Consumer Services)*, 2012 HRTO 726, that it is discrimination under the *Human Rights Code* to require trans people to undergo surgery before allowing them to apply for a birth certificate that accurately reflects their lived gender rather

than their birth-assigned sex. The requirement for ‘transsexual surgery’ “perpetuates disadvantage and prejudice against transgendered persons because it gives force to the prejudicial notion that transgendered people are not entitled to have their gender recognized unless they surgically alter their bodies,” reads the ruling. In response to this case, and the 2012 amendments to Ontario’s *Human Rights Code*, the Ontario Human Rights Commission has since released an updated *Policy on preventing discrimination because of gender identity and gender expression*, which clearly states that “A person’s self-defined gender identity is one of the most basic aspects of self-determination, dignity and freedom. For legal and social purposes, a person whose gender identity is different from their birth-assigned sex should be treated according to their lived gender identity.”



A subsequent case in Alberta resulted in a similar ruling, with one significant addition. In *C.F. v. Alberta (Vital Statistics)*, 2014 ABQB 237, the Court of Queen’s Bench of Alberta also ruled that requiring a trans person to undergo surgery before issuing a birth certificate that reflects that person’s self-defined gender identity is an infringement of the equality rights enshrined in the *Canadian Charter of Rights and Freedoms*, and is therefore inconsistent with the Constitution of Canada. This case is significant in that it is the first to recognize that trans people are protected from discrimination under the equality provisions of the *Charter*, either under sex or under a ground analogous to sex.



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