

Discrimination:

A CHECKLIST AND SAMPLE COLLECTIVE AGREEMENT LANGUAGE

This document provides a checklist and examples of collective agreement language on discrimination.

Discrimination is an action or a decision that treats a person or a group negatively for reasons such as their gender, race or disability. These reasons are known as grounds of discrimination.

Depending on the jurisdiction of your workplace (provincial, territorial or federal), your list of “prohibited grounds” of discrimination can include:

age, sex, race, gender, colour, creed, religion, ethnicity, pregnancy, ancestry, political belief, marital status, family status, language, citizenship, civil status, nationality, place of origin, physical disability, mental disability, criminal conviction, Aboriginal origin, social condition, sexual orientation, gender identity, gender expression, source of income, linguistic background or other grounds.

Your collective agreement should have a non-discrimination clause that:

- Covers all grounds of discrimination under human rights legislation in your jurisdiction.
- Covers additional grounds such as social condition and gender identity and expression that are not yet listed in all Canadian human rights laws.

- Protects workers from discrimination by anyone in the workplace - management, co-workers, the public, contractors, and service users.

Your collective agreement should also cover:

- Harassment. See the CUPE document *Stop harassment: A guide for CUPE locals* for tips on anti-harassment language.
- Counseling or services of an Employee Assistance Program for members who have experienced discrimination.
- Anti-oppression education for members and management.
- Measures to address systemic discrimination such as employment equity, pay equity and accommodation related to disability, family status, religion or other grounds.

The employer must ensure that workplace rules, policies and practices are not discriminatory. By law, employers must take proactive steps to make sure that standards and requirements do not discriminate against an individual or group of individuals. The impact, not the intent, is what matters.

The union must (a) not negotiate discriminatory contract language, and (b) actively cooperate with any reasonable accommodation being put forward.

Most CUPE collective agreements contain an anti-discrimination clause. Here's a few examples.

CUPE Local 3903 and York University
Expiry August 31, 2017

Article 4 - Discrimination and Harassment

4.01 Discrimination

The employer and the union agree that there shall be no discrimination, interference, restriction, harassment or coercion, including no mandatory blood or urine tests, including but not limited to as these relate to Acquired Immune Deficiency Syndrome (AIDS), AIDS related illness, AIDS-Related-Complex, or positive immune deficiency test, and including no genetic screening for specific medical disabilities or pregnancy, exercised or practiced with respect to any member of the bargaining unit in any matter concerning the application of the provisions of this agreement by reason of race, creed, colour, age, sex, marital status, parental status, number of dependents, nationality, citizenship (subject to the provisions of the Ontario Human Rights code concerning citizenship), ancestry, place of origin, native language (subject to Article 12.02.1), disability or disabilities (subject to Article 12.02.1), Acquired Immune Deficiency Syndrome (AIDS), or AIDS related illness, or AIDS-Related-Complex, or positive immune deficiency test (virus HIV) (subject to Article 12.02.1), political or religious affiliations or orientations, academic affiliations or orientations (subject to the exercise of academic freedom as set out in Article 14.01), record of offences (except where such a record is a reasonable and bona fide

ground for discrimination because of the nature of the employment), sexual orientation, transsexual transition status, gender expression, and gender identity, nor by reason of her membership or non-membership or lawful activity or lack of activity in the union, or the exercise of any of the rights under this agreement.


The employer undertakes that no York University student who is or has been employed in Unit 2 shall be penalized in her student status for the exercise of any of her rights under this collective agreement or by reason of her membership or non-membership or lawful activity or lack of activity in the union.

CUPE Local 8920 and Nova Scotia Provincial Health Authority

Expiry October 31, 2014

Article 4.1 No Discrimination/No Harassment

4.1.1 The Employer agrees that there shall be no discrimination, interference, restriction, harassment or coercion exercised or practiced with respect to any Employee or applicant for employment by reason including but not limited to age; race; creed; colour; place of origin; ethnic origin; citizenship; ancestry; political or religious affiliation, beliefs or activities; sex; gender expression or gender identity; transsexual/transgendered identification; sexual preference, orientation or identification; marital status; family status; parental status; number of dependents; class; place of residence; physical appearance; record of offences except where it relates to bona fide employment qualifications; Acquired Immune Deficiency Syndrome (AIDS), AIDS-related illnesses, positive



Human Immunodeficiency Virus (HIV) test and any other illness or disability, mental, physical or other disability, so long as it does not significantly impair the performance of the duties of the position; union membership or activity; nor by reason of the exercise of any of the rights contained in this Agreement.

For more information on human rights topics such as disability rights, pay equity and other issues related to discrimination, see cupe.ca/issues-research.