



# Knowing Your Rights

A Toolkit for 2SLGBTQPIA+ People  
Navigating the Criminal Justice  
System, Affirming Health Care,  
Youth Rights, Education, and  
Immigration




THOMPSON RIVERS  
UNIVERSITY  
CHAPTER



## INTENT:

Knowing Your Rights is a collaborative project between the Kamloops Pride Association and Pro Bono Students Canada, Thompson Rivers University Law School chapter. It is meant to provide guidance and information to the 2SLGBTQPIA+ community while trying to navigate various legal situations.

## DISCLAIMER:



Knowing Your Rights does not constitute legal or medical advice. Please consult a lawyer for legal advice or a doctor for medical advice. The information contained herein is up to date as of March 20, 2021. This is a fast-evolving area of law and policy; therefore, some content, forms, or appendices may be out of date. Links and resources have been provided to ensure that readers can still access the most up to date content.

## ACKNOWLEDGEMENTS:

The Kamloops Pride Society would like to thank PBSC Thompson Rivers University Chapter for their time and efforts in creating this resource. There have been many contributors since it's creation in 2021, but we would like to give special thanks to the original group:



Grace McDonell, the supervising lawyer for the project. Thompson Rivers University Law students, their names, pronouns, and graduation years are as follows: Alexandra Comber (she/her - 2021), Sydney Snape (she/her - 2022), Abbey Fortin (she/her - 2023), Erin Phillipow (she/her - 2023), Katelyn Chaudhary (she/her - 2023), and William Clark (he/him - 2023).

For free access to Canadian legal cases and legislation, visit the Canadian Legal Information Institute (CanLII):

<https://www.canlii.org/en/>

## CONTENT WARNING:

Some of the content contained in this document may be triggering as it discusses instances of negative interactions by 2SLGBTQPIA+ folks with institutions and close, familial relationships.



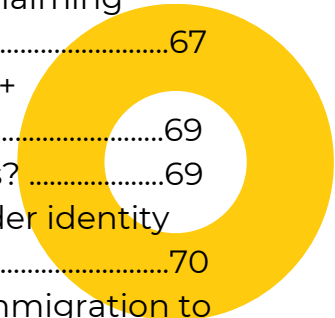
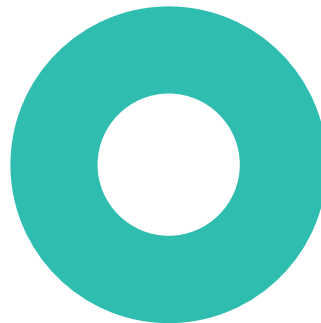
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# Criminal Justice

## WHAT ARE MY RIGHTS IF AN OFFICER APPROACHES ME ON THE STREET?

Section 9 of the Charter of Rights and Freedoms protects citizens from certain arbitrary state actions. If you are stopped by a police officer on the street, you have the right to ask the officer if you are being arrested or detained. If you are not being detained or arrested, you are free to leave.

## WHAT ARE MY RIGHTS IF I AM APPROACHED WHILE SLEEPING IN MY CAR?

If you are in an area with a bylaw restriction against sleeping in your car, you may have to show the police your ID, and you may be issued a ticket. Police may ask you to leave the premises or area. If you are experiencing homelessness, the City of Kamloops provides shelter resources. Here are Shelter Resources from the City of Kamloops at <https://www.kamloops.ca/our-community/housing-homelessness/resources-people-experiencing-homelessness>

In addition to traditional shelters, Kamloops also has supportive housing locations. Supportive housing projects provide residents self-contained units with kitchenettes and private bathrooms. There is also a range of on-site resources, life skills training, connections to health care, mental health or substance-use services. Supportive housing is available for folks who are low-income adults, are homeless or at risk of homelessness, require supports to live independently, or need support to maintain a successful tenancy.

To be considered for supportive housing you must complete the Vulnerability Assessment Tool (VAT). The agencies that can administer the VAT in Kamloops are:

- ASK Wellness
- John Howard Society
- Lii Michif Otipemisiwak Family and Community Services
- Interior Health
- The Mustard Seed Kamloops
- Elizabeth Fry Society
- Canadian Mental Health Association – Kamloops
- Safe Spaces with Interior Community Services (ICS)

For the COVID-19 pandemic, the City of Kamloops has outlined rules for temporary overnight shelters. As explained on their website, shelters may only cover an area of less than 10 m<sup>2</sup> and must be free of garbage and excessive clutter. There can be no fires or smoking, and the shelters must be detached from other structures. Regardless, in British Columbia, people cannot be restricted from sleeping in parks at night and people who are experiencing homelessness can create structures to sleep under, as long as they are taken down by morning.

There are day storage lockers that are free to use to store a single person's belongings at 48 Victoria Street West (Across from City Hall), from Monday to Sunday, between the hours of 11:00 AM – 5:00 PM. Further details including a map of permitted locations and additional resources can be found here: <https://www.kamloops.ca/our-community/housing-homelessness/resources-people-experiencing-homelessness>

## WHAT ARE MY RIGHTS IF I AM PULLED OVER WHILE DRIVING?

If you are pulled over by the police, you must show the officer a valid driver's license. You may also be required to show your vehicle registration. If an officer suspects you have been drinking and driving, you may be asked for a breath sample. If you refuse to provide a breath sample, you may be arrested.

*\* Note: Generally, you can ask for an officer's name, badge number, and information*

*\*\* Note: If your license does not correspond with your gender identity, you may be required to explain this to the officer*

*\*\*\* Note: You may call 911 if you are being pulled over by an unmarked police car to ensure that you are being pulled over by an officer*

## WHAT CAN I DO IF AN OFFICER, JUDGE, LAWYER, OR OTHER STATE-ACTOR DEADNAMES OR MISGENDERS ME?

A state actor is someone acting on behalf of the government, such as a police officer, judge, social worker, or lawyer working for the government. If a state actor does not use your correct pronouns or name, you should make them aware of the proper way to refer to you. If the state actor still refuses to call you by your correct pronouns or name, it may be deemed contrary to the BC Human Rights Code.

You may submit a complaint through the RCMP website, phone, fax, or by mail (see below), or you may submit a complaint through the Human Rights Tribunal: [http://www.bchrt.bc.ca/complaint\\_process/index.htm](http://www.bchrt.bc.ca/complaint_process/index.htm).

*Note: There is a 1-year limitation period to file your human rights complaint and it is free to file.*

## HOW CAN I FILE A COMPLAINT AGAINST THE POLICE?

You can file a complaint about an officer, civilian member, or a special constable through the RCMP website. You can submit your complaint:

- By Online Form: <https://www.crcc.ccetp.gc.ca/en/make-complaint-form>
- By Telephone:
  - 1-800-665-6878
  - TTY: 1-866-432-5837
- By Mail or Fax:
  - Print form: <https://www.crcc-ccetp.gc.ca/pdf/complaintplainte-en.pdf>
  - Fax to: 613-960-6147
  - Mail to:  
Civilian Review and Complaints Commission for the RCMP National Intake Office  
P.O. Box 1722, Station B  
Ottawa, ON K1P 0B3



## WHAT ID DO I HAVE TO SHOW THE POLICE?

When required, you have to show police a document with your name, age, and address on it, typically a driver's license, passport, permanent residency card, or birth certificate are all sufficient. If your ID does not match your gender identity, you may have to explain to the officer why that is.

There are many reasons in which a photo ID may not fully match up with a driver, such as changes over time, age, haircuts, etc. Although the police may ask a few questions to ensure it is you driving the vehicle, they are trained to ask these questions respectfully and in a way that acknowledges who you are.

For example, the police may ask for your "legal name", and if your name has not yet been legally changed, you may disclose your legal name as well as your correct name. The officer should then use your correct name when they speak to you.

It is important to note that officers are duty-bound to ensure the person is who they say they are. To accomplish this, officers may ask questions to ensure you are the same person as your identification, or for properly detailed information that is necessary for identification.

## WHAT IF MY ID DOES NOT REPRESENT MY GENDER IDENTITY AND I AM STOPPED BY THE POLICE?

If your ID does not represent your gender identity and you are stopped by the police, you can explain this to the officer(s). Let the officer know both your legal name and correct name for the purposes of identification.

For example, you may tell an officer, *"I am transgender/non-binary/etc. and I go by the name \_\_\_\_\_", but my legal name on my drivers' license is \_\_\_\_\_*".

You should also advise the officer if you are in the process of getting your name changed or in the process of transitioning. Officers will use your legal name for the court-process but refer to you with your correct name. Officers will write on documents such as a report to the Crown both your legal name as well as your correct name. In all levels of BC Court, all participants, counsel, judge or justice, and witnesses will be required to share their correct pronouns.

Counsel addressing Court will state your legal name first for the record, before your correct name. The court will then use your correct name.

Most officers will use your correct name when referring to you, but there may be a few officers who will either make a mistake or purposefully refuse to respect your wishes. If a police officer refuses to respect your identity, you may submit a complaint to the RCMP <https://www.crcccetp.gc.ca/en/make-complaint-form>, or submit a complaint through the Human Rights Tribunal: <http://www.bchrt.bc.ca/complaint-process/index.htm>

*\* Note: There is a 1-year limitation period to file your human rights complaint and it is free to file.*

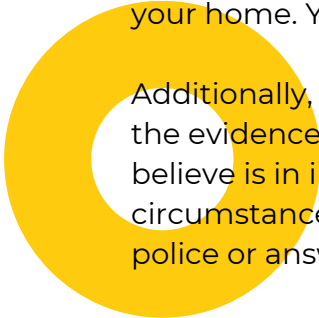


## WHAT IF MY TRANSGENDER IDENTITY IS A SECRET TO THE PEOPLE IN MY LIFE?

When interacting with a police officer, unless they are required to by law, they will not share your personal information without your permission.

## WHEN DO I HAVE TO ANSWER MY DOOR TO A POLICE OFFICER?

You must open your door to the police under certain circumstances. If the police have a warrant you must open the door. Be sure to check if the name, date, and address on the warrant are correct. If anything is wrong on the warrant, they do not have a right to enter your home. You must open the door if they have a condition for bail or a probation order.



Additionally, if they are chasing someone who has entered your building, if they believe the evidence of a crime is being destroyed, or if they are trying to help someone they believe is in immediate danger, then they may enter your home. If none of these circumstances are taking place you are not legally obligated to open the door to the police or answer their questions.

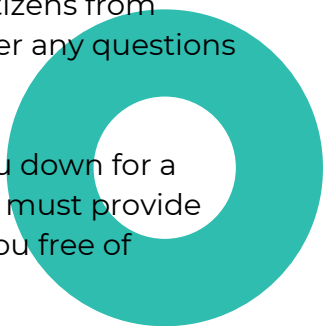
## HOW DO I KNOW IF I AM BEING DETAINED?

If you are in a situation where a police officer is not allowing you to leave, or you feel that you aren't able to leave, you may be detained. Detainment is different from arrest. If you are being detained, you are being officially held by the police, usually for questioning concerning a crime. If you are unsure what is taking place, ask the police "am I being detained?" They are required to tell you if you are being detained and why you are being detained. When you are detained, you are not free to go. If you are detained, the police are required under Section 10 of the Canadian Charter of Rights and Freedoms to make you aware of your rights, which include speaking to legal counsel.

## WHAT ARE MY RIGHTS IF I AM DETAINED?

Section 9 of the Canadian Charter of Rights and Freedoms protects all citizens from arbitrary detainment. If you are being detained, you do not have to answer any questions besides identification questions.

You have the right to speak with legal counsel, and the police can pat you down for a safety search. If you do not have the resources to hire a lawyer, the police must provide you with the resources to contact a legal aid lawyer, who will represent you free of charge.



## HOW DO I KNOW IF I AM BEING ARRESTED?


If you are being arrested the police are required to tell you that you are being arrested, why you are being arrested, and to read you your rights. You may be put into handcuffs or restrained in another way.



## WHAT ARE MY RIGHTS IF I AM BEING ARRESTED?

When being arrested, you have a right to know the reason for arrest. You must be “read your rights,” in most cases, officers will not explicitly read your rights to you, but tell you in a verbal format. You must be told that you have a right to remain silent and the right to a lawyer. If you are not told these things, you must tell your lawyer when you contact them.

You also have the right to be given the number of a legal aid lawyer, and the opportunity to speak with them privately. Police officers do have the right to search your person incident to arrest. This means they can search you and your immediate surroundings for weapons or evidence related to the arrest. They must not conduct the search in an abusive fashion, and if you feel the search was abusive you must share this with your lawyer.



## HOW CAN I REPORT A HATE CRIME?

A hate crime is any crime that is motivated by hostility to the victim as a member of an identifiable group, such as one based on sexual orientation, race, colour, creed or gender. Examples of hate crimes can include assault, or defamation of property.<sup>24</sup> You are entitled to protection from hate crimes under sections 318 and 319 of the Criminal Code. If you believe that a hate crime has been committed against you, you may report it and file a Human Rights complaint.

*\* Note: To report a hate crime, you may file a complaint to the Human Rights Tribunal within one year of the incident. There are no fees attached to filing a Human Rights complaint.*



You may also go to your local police detachment, phone 1-855-462-5733, or email BC\_HATE\_CRIMES@rcmp-grc.ca. If the hate crime is in progress, call 911. When you report a hate crime, any of the information you provide is confidential, and may not be shared or admitted into evidence unless you give consent.

## HOW CAN I GO ABOUT CHANGING MY DOCUMENTATION?

Transgender, Non-Binary, and Gender diverse people are not legally required to change their documentation; however, if you choose to do so, the processes and some resources are outlined below.

Trans Care BC has a free and helpful tool that helps you navigate the processes and requirements for changing Provincial and Federal Identification for name changes, and/or gender markers here: <http://live-transcarebc.button.build/updating-id/>

*\* Note: This information is constantly being updated and adapted. Please see <https://www2.gov.bc.ca/gov/content/life-events/legal-changes-of-name> for any up-to-date changes.*

*\*\* Note: Most people change their provincial documents before their federal documents.*



## Provincial Documentation

Provincial documents include:

- BC Birth Certificate
- BC Driver's license
- BC Identification Card
- BC Services Card (can be separate from or joined with BC Driver's License, and may or may not include a photo)
- Enhanced Driver's License and Enhanced Identification Card.

To change your name and gender marker, you can complete both applications at the same time, but the processes are separate.

### Change of Name:

For someone who is over the age of 19 and born in Canada, you must complete an application for a change of name.

In conjunction with the application, you must send in your:

- original Birth Certificate,
- a photocopy of a receipt for fingerprinting completed in the last 30 days,
- any marriage certificates,
- a photocopy of government-issued picture ID,
- any previous Change of Name documents,
- and any fees that are required.

The fee required to send the application is \$137.00. If you earn less than \$20,000 per year, you may qualify for a fee waiver. To do so, you must include a copy of your last tax return, as well as a letter requesting the change of name fee is waived.

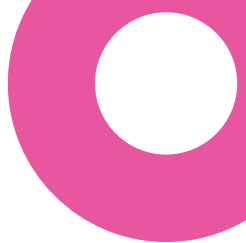
To have your fingerprints taken electronically, you must visit your local RCMP detachment. There is a fee for this service ranging from \$25 to \$80, but if you're in Vancouver you can apply to have it reduced to \$25.00 through the Catherine White Holman Wellness Center.

A lawyer or notary must sign your name change application for it to be complete. This may require additional fees; however, Service BC can do this for free.

If your change of name application is approved, you will receive a confirmation letter from Vital Statistics BC. Your certificate of Name Change will arrive separately.

If you plan on changing your gender marker as well, it is advised you do not order a new ID or birth certificate until after that has been approved.

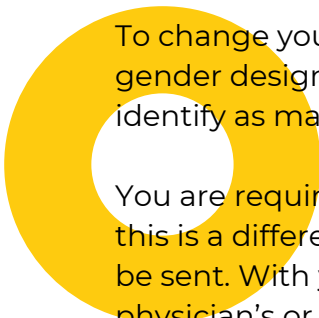
The next steps for you to take include ordering a new birth certificate, sending a copy of that birth certificate to Health Insurance BC, wait for your new service card to arrive, and take your new documentation to an ICBC location to receive an updated Driver's License or BCID.



Here is an updated website you can use for more information about the websites necessary to change information and documentation, such as your name, gender marker, birth certificates, and much more: <http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change> or <http://live-transcarebc.button.build/updating-id/>. The government websites also denote the costs and fees associated with the change for processing purposes along with a variety of other information and resources.

### **Change of Gender Marker:**

If you were born in BC, you can update your BC birth certificate to include a gender marking of M, F, or X. The Application for Change of Gender Designation for adults can be found here, and for children and youth here.



To change your gender, you must have a physician or psychologist confirm a change of gender designation form. A non-binary marker of X is available to individuals who do not identify as male or female.

You are required to send your application to Vital Statistics in Kelowna. Please note that this is a different office and address from where the Change of Name Application must be sent. With your completed application, you must send the original copy of a physician's or psychologists' confirmation of the change of gender designation, the required fees, and any previously issued birth certificates.

The fee included is \$27.00. If you make less than \$20,000 per year you may apply for a fee waiver. You may do so by including a copy of your most recent tax return as well as a letter requesting the fee be waived.

Additional information and resources can be found here:

<https://www2.gov.bc.ca/gov/content/life-events/legal-changes-of-name>  
<http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change>


### **Federal Documentation**

Federal Documents Include:

- Canadian Passport
- Citizenship Card
- Permanent Resident Card
- Temporary Resident Documents
- Certificate of Indian Status
- Social Insurance Number
- Income Tax Records
- Voting Records

To change your federal documents, you must have an updated birth certificate.

For federal documents, you must have a confirmation of the SIN letter. You are required to provide a birth certificate or permanent residency or Canadian citizenship card, and certificate of change of name. You can do this at the same time as you change your gender on your SIN.






## Social Insurance Number(SIN)

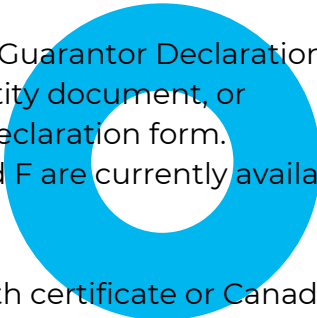
To change your social insurance number record, gender, and name, you must have a primary ID document and a change of name certificate.

You can update by:

- mail:
    - Service Canada Social insurance Registration Office  
Post Office Box 7000  
Bathurst NB, E2A 4T1
  - in-person at a Service Canada Office. Locations can be found on their website:  
<http://www.servicecanada.gc.ca/tbsc-fsco/sc-hme.jsp>
- 

## Certificate of Indian Status

To change your Certificate of Indian Status, you must complete the Application for Already Registered Persons and choose “replacement—changes to personal information”. You must also submit in person or by mail:

- two identical and unaltered Canadian passport-style photos taken within the last 12 months,
  - proof of ID in the form of signature
  - more than one document that when combined include name, date of birth, photo, and signature, and
  - either
    - a Secure Certificate of Indian Status and a Guarantor Declaration form, or
    - a Certificate of Indian Status and one identity document, or
    - one identity document and a Guarantor Declaration form.
- 

Gender markers may be changed, but only M and F are currently available.

## Passport

To change your passport, you must have your birth certificate or Canadian citizenship certificate with your updated name. You can apply by mail or in person at a Passport Canada Office. The application can be found here:

[https://www.canada.ca/content/dam/ircc/migration/ircc/english/passport/forms/pdf/ppt\\_c153.pdf](https://www.canada.ca/content/dam/ircc/migration/ircc/english/passport/forms/pdf/ppt_c153.pdf)

*\* Note: If you have the gender marking X on a passport or travel document, Passport Canada has stated they cannot guarantee other countries will accept that gender marking. They suggest checking with the Canadian Embassy in whichever country or countries you are travelling to.*

### **Permanent Residency Card**

To change your permanent residency card, you must have a certificate of change of name, and follow up with Canadian immigration services. The Application for Permanent Residency card can be found here:

<https://its-site.ams3.digitaloceanspaces.com/Application-for-a-Permanent-Resident-Card.pdf>

You may do this at the same time as changing your gender on the permanent residency card. The application for Change of Gender Designation can be found here:

<https://www.canada.ca/content/dam/ircc/documents/pdf/english/kits/forms/irm0002epdf>

### **Citizenship Certificate**

To change your citizenship certificate, you need the certificate of change of name, and you can do so at the same time as changing the gender on your citizenship certificate. The application can be found here:

<https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/kits/citizen/cit0001e-2.pdf> and the Request for Change of Gender Designation can be found here: <https://irp.cdn.multiscreensite.com/be3b7c5d/files/uploaded/Statutory-Declaration-%E2%80%93-Request-for-a-Change-of-Sex-Designation-1.pdf>

### **Temporary Resident Documents**

To change your temporary Resident Documents, the instructions guide can be found here: <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5218-request-amend-record-landingconfirmation-permanent-residence-valid-temporary-resident-documents.html>

And the application to amend here:

<https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/kits/forms/imm1436e.pdf>

### **All Applicants:**

Once your documentation has been updated, you may notify:

- Canada Revenue Agency through telephone: 1-800-959-8281
- Elections Canada

Phone: 1-800-463-6868,

Online: <https://csep-pesc.elections.ca/en-CA/intake/intake-mop/>



## WHO CAN I APPROACH ABOUT CHANGING MY DOCUMENTATION?

To change British Columbia provincial documents, you can reach out to BC Vital Statistics at 1- 888-876-1633 or talk to someone in person at Service BC.

Within Vancouver, there are multiple agencies that will provide aid in the document change process.

- QMUNITY hosts a Transgender ID Change Clinic that provides notary services for low-income transgender individuals applying for a change of name or gender on ID. Their contact info is [TransID@qmunity.ca](mailto:TransID@qmunity.ca).
- The PACE society provides support to transgender individuals in filling out the paperwork required to change one's name/gender on their ID. They also provide aid in paying the associated fees. Their contact information is: 604-872-7651 or [info@pace-society.org](mailto:info@pace-society.org)
- The Broadway Youth Resource Centre supports youth between the ages of 13-24 with paperwork for a legal change of name and gender markers. They also may help with the associated fees. Their contact information is: 604-709-5720 or [byrc@pcrs.ca](mailto:byrc@pcrs.ca)
- The Catherine White Holman Wellness Center provides legal advice, counselling, and a variety of other services. Their contact information is: [contactus@cwhwc.com](mailto:contactus@cwhwc.com). You may also request services through their website: <https://cwhwc.com/contact/>

## WHAT WILL HAPPEN IF I AM HOMELESS AND STOPPED/APPROACHED BY THE POLICE?

Everyone has the right not to be arbitrarily detained or imprisoned. A police officer may walk up to you and ask for information, but if you are not detained or under arrest then you may refuse to cooperate. If you are detained or under arrest, the officer will need to notify you and tell you why. There can be certain situations where cooperation is a legal requirement, such as, if you are being pulled over while driving under the BC Motor Vehicles Act. If a police officer has a warrant, they have the authority to arrest you, but they must read you your rights and allow you to call a lawyer as soon as possible.

If an officer does not have a warrant, the authority to do so is s. 495 of the *Criminal Code*:

495 (1) A peace officer may arrest without a warrant

- a.) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
- b.) a person whom he finds committing a criminal offence; or
- c.) a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found.

This means that an officer may arrest you without a warrant only if the officer has reasonable grounds to assume that either you have committed an indictable offence or will be committing one, or if the officer finds you committing an offence.

Because people experiencing homelessness will be deemed a vulnerable group, officers must take great care with treatment. If police behaviour is deemed excessive, or if the police force you or intimidate you to incriminate yourself, the evidence used against you in court after the fact may be inadmissible.



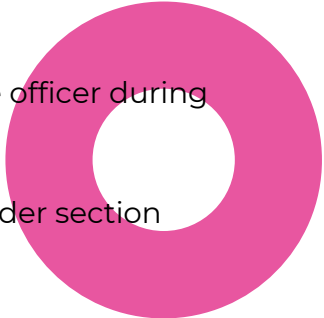


## WHAT CAN I DO IF I FEEL UNSAFE IN A SITUATION WITH THE POLICE?

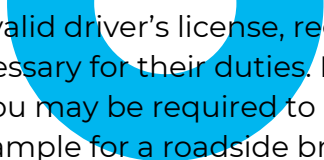
A police officer is considered a person of authority. An officer may ask you questions and be persistent, and this can be intimidating. Anything you say to an officer when you are not explicitly detained or under arrest may not be admissible in court. There may be other remedies for such behaviour, depending on the severity.

## WHAT ARE MY RIGHTS DURING A TRAFFIC STOP?

Section 94(3) of the BC Motor Vehicles Act illustrates the duties of a police officer during a traffic stop:

- 94.3 If a peace officer serves a notice of driving prohibition on a person under section 94.1,
- a.) the peace officer must promptly forward to the superintendent
    - i. the person's licence or permit to operate a motor vehicle, if the peace officer took the licence or permit into possession,
    - ii. a copy of the notice of driving prohibition, and
    - iii. a certificate of service, in the form established by the superintendent, showing that the notice of driving prohibition was personally served on the person subject to the driving prohibition, and
  - b.) the peace officer, or another peace officer, must promptly forward to the superintendent
    - i. a report, in the form established by the superintendent, sworn or solemnly affirmed by the peace officer whose opinion resulted in the notice of driving prohibition being served on the person,
    - ii. a copy of any certificate of analysis under Part VIII.1 of the Criminal Code with respect to the person, and
    - iii. any prescribed documents or information.
- 

During a traffic stop the officer may ask for your valid driver's license, registration, insurance papers, and other documentation necessary for their duties. If your license does not correspond with your gender identity you may be required to explain this to the officer. The police may also ask for a breath sample for a roadside breathalyzer test. The police, however, must abide by the Charter. The police cannot arrest or detain arbitrarily, or act in any way contrary to the Charter.




If you feel intimidated by the police, or feel as though you have been detained, ensure you discuss this with legal aid or your lawyer.

## WHAT INFORMATION DO I HAVE TO GIVE TO THE POLICE IF I AM NOT DETAINED?

If you are simply questioned by police, and not detained, you do not have to answer questions or state your name, unless required by law.

An example of "required by law" includes traffic stops, in which you must comply with a police officer's questions under the BC Motor Vehicle Act.



## IF ARRESTED AND HELD IN CUSTODY, ARE YOU DETAINED IN THE APPROPRIATE GENDERED CELL? ARE YOU ALLOWED TO KEEP THE GENDER-AFFIRMING PROSTHESIS WORN SUCH AS BINDERS, PACKERS, BREASTPLATES, GAFFS, ETC?

### **Federal:**

Correctional Services Canada (CSC) holds a policy that permits individualized protocols for frisk as well as strip searches of transgender inmates. It is important to the CSC to allow inmates to have input into the search process. The CSC notes they are aware that some transgender inmates may be using personal items such as breast or penile prosthetics to support their gender identity and they may voice their concerns on how these items are handled during a search.

### **Provincial:**

If you are held in a provincial facility you can keep any gender-affirming prosthesis such as binders, packers, breastplates, or gaffs. BC Corrections has a policy outlining the proper search of these items in the safest and most appropriate way possible.

You may choose the gender of the officer searching you, and you may also elect to be “split searched” which means you may have different parts of your body searched by different genders. If you feel unsafe or uncomfortable during a search of your gender-affirming prosthetics, let the staff member know.

If you begin to require gender-affirming prosthesis while held in a BC correctional facility, you may be able to receive them as long as there are no safety concerns to staff, yourself, or other inmates.

*\* Note: This information has been obtained from the BC Corrections policies, “Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.,” along with the “B.C. Corrections Branch Adult Custody Policy”, both of which are attached to Appendix E.*

## IF I AM HELD IN FEDERAL PRISON, WHAT ARE MY RIGHTS?

If you are held in federal prison you will be put in a sex-segregated facility based on your gender identity, and you are able to wear clothing that suits your gender identity. The corrections officers can search you, but you have the right to choose which gender officer searches what part of your body.

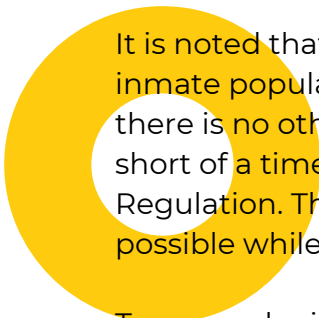
Additionally, you have the right to receive hormone therapy in prison as you are entitled to the same quality healthcare you would receive within the community. If you have lived as your gender identity for 12 months and have been diagnosed with gender dysphoria by a specialist physician, CSC will pay for your gender-affirming surgery. If you choose to gender-affirming surgery there should be no delays caused by the CSC, and the surgery timeline must be created with your release date in mind. You must retain the same specialist throughout the process unless you and the CSC decide together on a different choice.



## IF I AM HELD IN A PROVINCIAL PRISON, WHAT ARE MY RIGHTS?

If held in a provincial prison, you have the right to self-identify your gender to the staff and to be placed in a correctional center according to your gender identity, unless there are health and safety concerns that cannot be resolved. When doing your intake when you first arrive at the prison, the staff should ask you for your correct name and pronouns and refer to you as such.

You have the right to choose what gender officer searches what part of your body, as well as the right to the use of private washroom facilities. If you are placed in a facility according to your birth sex, you are not required to share a cell.



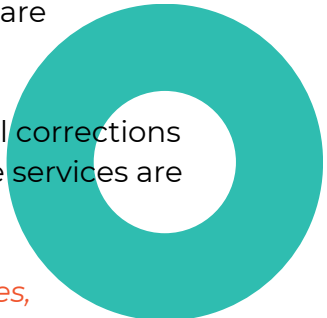
It is noted that whenever it is possible, transgender inmates are integrated into the inmate population. If there are health and safety concerns that cannot be resolved and there is no other appropriate placement, the inmate can be separately confined for as short of a time as possible. This is pursuant to sections 17, 18, and 19 of the Correction Act Regulation. The inmate will be given as many social and programming opportunities as possible while in confinement.

Transgender inmates are given preference for single cell living spaces. If you wish, you may request to share a cell with someone you trust, and this will be reviewed depending on the risk to both parties, and the overall living unit. Transgender inmates are also offered individual and private access to showers and toilets for safety and privacy purposes.

If you feel unsafe or that someone is disrespecting you or your pronouns, you may address your concerns to the Deputy Warden. The Deputy Warden addresses several issues within the living units.

You may file an official complaint form through the Warden. You will be able to do so in a private setting, and the Warden should do what they can to offer an immediate solution such as moving you to a separate living unit, or the person(s) you are complaining about to a different living unit.

Currently, there is no system in place for transgender inmates in provincial corrections facilities to receive gender-affirmation surgery. However, other health care services are offered on a case-by-case basis relating to medical necessity.




*\*Note: This information has been obtained from the BC Corrections policies, "Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.," along with the "B.C. Corrections Branch Adult Custody Policy", both of which are attached to Appendix E.*



## IF I AM BEING DISRESPECTED BY THE PRISON STAFF, WHAT CAN I DO?

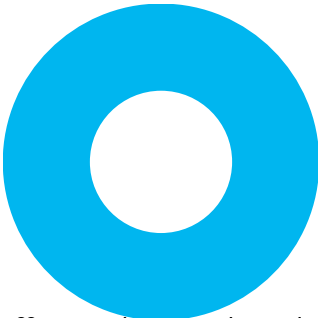
### Federal Prison

If you are being harassed or disrespected by staff in a federal prison you can file a complaint or have a family member or friend file on your behalf. You can make the complaint via:

- Mail:
    - Office of the Correctional Investigator  
P.O. Box 3421, Station "D"  
Ottawa ON K1P 6L4
  - Telephone:
    - 1-877-885-8848 (Toll-Free)  
Monday-Friday: 8:30 - 16:30 EST
  - In Person:
    - During scheduled institutional visits by OCI (Office of the Correctional Investigator) staff.
- 

### Provincial Prison

If held in a provincial prison, it is encouraged that you speak with the correctional officer in your unit or the Deputy Warden. If the issue cannot be resolved through that person, you may ask any staff member for a complaint form. When completed you may take this form to any staff member who will deliver it to the right person. If you do not receive a response within seven days or you are not satisfied with the response you receive, there are phone, fax, and mailing options to file a complaint. The contact information is as follows:

- Phone: 250-387-5948
  - Fax: 250-356-9875
  - Mail: PO Box 9279,  
STN PROV GOVT,  
Victoria, B.C. V8W 9J7
- 

## IF I FEEL UNSAFE IN PRISON, WHAT CAN I DO?


You may speak with your corrections officer or other staff member and explain your concerns. The same procedures apply as above if you wish to file a complaint.

You may also call mental health support lines in Kamloops to receive the mental and emotional help you may need:

- Kamloops Mental Health Support Line:
  - Call 310-6789 (do not add an area code such as 604, 778, or 250 before the number).

## HOW CAN I ACCESS THE HEALTHCARE NEEDS THAT I HAVE WHEN IN PRISON?

You are entitled to the same quality health care that you would receive in the community. In a Provincial facility, you can be provided with health care services relating to gender dysphoria if it is deemed necessary.



## WHAT ARE MY RIGHTS WHEN IT COMES TO BEING STRIP-SEARCHED?

When it comes to being strip-searched or frisked, you may choose the gender of the officer you wish to search your private person. You also have the right to be strip-searched in private. If you are wearing any sort of gender-affirming prosthesis, the officer must take special care and precaution while searching you.

## WHAT IF I CANNOT AFFORD A LAWYER?

If you are being charged criminally you have the right under the Canadian Charter of Rights and Freedoms to counsel, and if you cannot afford one you will be given a court-appointed lawyer. If you are looking to file a civil action or a human rights complaint you are not entitled to legal aid, but there are resources within BC that provide help with the processes, and even provide you legal counsel.

The Elizabeth Fry Legal Clinic provides answers to questions regarding human rights issues, can help fill out complaint forms, gives summary advice and referrals, as well as free public legal education to groups and organizations.

Elizabeth Fry Legal Clinic:

Legal Services Office Location: 702-235 1st Avenue Kamloops, BC V2C 3J4.

Phone: 250-374-2119 (main office)

Phone: 250-374-2119 (legal services)

Email: [admin@kamloopsfry.com](mailto:admin@kamloopsfry.com)

Website: [www.kamloopsefry.com/#community-justice](http://www.kamloopsefry.com/#community-justice)

Thompson Rivers University also provides services through a Community Legal Clinic. They can answer questions about human rights issues, can help fill out complaint forms, and will represent clients through the entire process of filing a complaint with the BC Human Rights Tribunal.

Community Legal Clinic:

Office Location: 204-246 2nd Avenue Kamloops, BC V2C 2C9

Phone: 778-471-8490

Website: [tru.ca/law/legalclinic](http://tru.ca/law/legalclinic)

*\* Note: There is a 1-year limitation period to file your human rights complaint with the Tribunal and it is free to file.*

Access Pro Bono is another great resource to receive free legal help from lawyer volunteers that act to help decrease barriers to justice by increasing access to those who need it: <https://accessprobono.ca>

## WHAT HAPPENS IF I AM ARRESTED?

If you are arrested lawfully, the police have the authority to carry out a limited search incident to arrest. For this, the police have only a limited power to briefly pat you down and a search of immediate areas such as bags without additional grounds. This is done to ensure you are not carrying anything unsafe that can be used to harm another person or yourself.

After an arrest, everyone must be read their section 10 rights under the Charter by the police. This informs you that:

10. Everyone has the right on arrest or detention
  - a.) to be informed promptly of the reasons therefore;
  - b.) to retain and instruct counsel without delay and to be informed of that right

This means that you must be informed of why you are being arrested and you must be told of your right to a lawyer without reasonable delay.

## WHAT HAPPENS IF I AM CONVICTED OF A CRIME?

If you are convicted of a crime, the next steps depend on your sentence. If you are sentenced to a prison term you may be placed in federal or provincial prison depending on the crime. If you have any questions about your sentence you should confer with your legal representative. If you are sentenced to parole, you will be assigned a parole officer and you will have to comply with the terms of your parole.

## HOW TO EXPUNGE A CRIMINAL RECORD?

There are limited circumstances where you can expunge a criminal record. Expunging your record means that the person who has been convicted of an offence would be deemed never to have been convicted in the first place. Expungement is applicable for “unjust convictions, which includes eligible offences involving consensual sexual activity with a same-sex partner that would be lawful today.” This information could be found at the Government of Canada website:

<https://publications.gc.ca/site/eng/9.853865/publication.html>

The following convictions are eligible for an expungement:

- Gross indecency or attempt to commit gross indecency;
- Buggery or attempt to commit buggery;
- Anal intercourse or attempt to commit anal intercourse; and
- Any offence under the National Defence Act or any previous version of the Act for an act or omission that constitutes an offence listed in the schedule to the Expungement Act.

There is no fee to apply for an expungement order. Applicants should, however, be aware that costs may be incurred in terms of providing the documentation needed for the application. Applicants need to provide evidence that the conviction meets the following criteria:

- the activity for which the person was convicted was between persons of the same sex;
- the person(s), other than the person convicted, had given their consent to participate in the activity; and
- the person(s) who participated in the activity were 16 years of age or older at the time of the activity or subject to a ‘close in age’ defence under the Criminal Code.

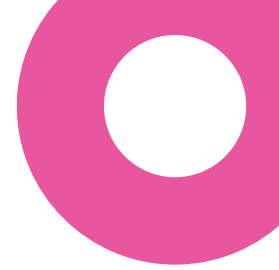
*\* Section 273.1 of the Criminal Code defines consent as the voluntary agreement of a person to engage in the sexual activity in question.*



# Criminal Justice References

1. **Canadian Charter of Rights and Freedoms**, s 9, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
2. **Trans Rights BC, “Police & Prison System” online: PHSA:** <http://www.transrightsbc.ca/know-your-rights/police-prison-system/>
3. **Shelter Resources, online:** City of Kamloops: [https://www.kamloops.ca/sites/default/files/docs/our\\_community/scd\\_shelterresourceflatsheet\\_8-5x11\\_nov2019\\_final.pdf](https://www.kamloops.ca/sites/default/files/docs/our_community/scd_shelterresourceflatsheet_8-5x11_nov2019_final.pdf)
4. **BC Housing “Supportive Housing” online:** <https://www.bchousing.org/housing-assistance/housing-with-support/supportive-housing>
5. **Victoria (City) v Adams, 2009** BCCA 563 at para 195; **Abbotsford (City) v Shantz, 2015** BCSC 1909 at paras 124, 203, 276.
6. **Definitions Dictionary, online:** <https://www.definitions.net/definition/state+actor> sub verbo “state actor”.
7. **Human Rights Code**, RSBC 1996, c 210, s 44(2).
8. **BC Human Rights Tribunal, “Human Rights Complaint Process” online:** <http://www.bchrt.bc.ca/complaint-process/index.htm>
9. **Royal Canadian Mounted Police, “Making a public complaint against an RCMP member” online:** <https://www.rcmp-grc.gc.ca/cont/faq-comp-plainte-eng.htm>
10. **The Supreme Court of British Columbia, “Forms of Address for Parties and Counsel in Proceedings PD-59” (16 December 2020) online (pdf):** [https://www.bccourts.ca/supreme\\_court/practice\\_and\\_procedure/practice\\_directions/civil/PD59\\_Forms\\_of\\_Address\\_for\\_Parties\\_and\\_Counsel\\_in\\_Proceedings.pdf](https://www.bccourts.ca/supreme_court/practice_and_procedure/practice_directions/civil/PD59_Forms_of_Address_for_Parties_and_Counsel_in_Proceedings.pdf)
11. **The Provincial Court of British Columbia, Notice to the Profession and Public:** Form of Address for Parties and Lawyers, NP 24 (16 December 2020) online: <https://www.provincialcourt.bc.ca/downloads/Practice%20Directions/NP%2024%20Form%20of%20Address%20for%20Parties%20and%20Lawyers.pdf>
12. **R v Grant, 2009** SCC 32, at para 22, 58; **R v Suberu, 2009** SCC 33 at para 2.
13. **R v Mann, 2004** SCC 52 at para 45.
14. **R v Grant, 2009** SCC 32, at para 22, 58; **R v Suberu, 2009** SCC 33 at para 2.
15. **Cloutier v Langlois, [1990]** 1 SCR 158, at paras 21, 22, 59-64, 1990 CanLII 122.
16. **Merriam-Webster Dictionary, online:** <https://www.merriam-webster.com/dictionary/hate%20crime>
17. **Human Rights Code**, RSBC 1996, c 210, s 22.
18. **Trans Rights BC “Human Rights Complaints” online PHSA:** <http://www.transrightsbc.ca/take-action/human-rights-complaints/>
19. **Human Rights Code**, RSBC 1996, c 210, s 40.
20. **Trans Care BC “Updating ID Guide” online: PHSA:** <http://livetranscarebc.button.build/updating-id/>.
21. **Vital Statistics Agency “Application for Change of Name” online (pdf):** <https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa529.pdf>.
22. **Trans Care BC “Legal Change of Name(born in Canada)” online:** <http://live.transcarebc.button.build/tid-result-a/> [Legal Change of Name].
23. **“Service BC Location: Kamloops” online:** <https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministriesorganizations/ministries/citizens-services/servicebc/service-bc-location-kamloops>.
24. **Trans Care BC, “ID & Name Change” online:** <http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change>.
25. **“Instructions for the Application for Change of Gender Designation (Adult)” online (pdf):** [https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509a\\_fill.pdf](https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509a_fill.pdf).
26. **“Instructions for the Application for Change of Gender Designation (Minor)” online (pdf):** [https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509c\\_fill.pdf](https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509c_fill.pdf)
27. **“Change of Gender Designation on Birth Certificates” online:** <https://www2.gov.bc.ca/gov/content/life-events/birth-adoption/births/birth-certificates/change-of-gender-designation-on-birthcertificates#:~:text=Once%20the%20gender%20on%20a,and%20the%20Enhanced%20Identification%20Card>.
28. **Trans Care BC, “Change Gender Marker” online:** <http://live.transcarebc.button.build/change-gender-marker/> [Change Gender Marker].
29. **Trans Care BC, “Canadian Passport” online:** <http://livetranscarebc.button.build/tid-federal-documents/>.
30. **Trans Care BC, “Certificate of Indian Status” online:** <http://live.transcarebc.button.build/tid-federal-documents/#c=2699>
31. **Trans Care BC, “Other Federal Documents” online:** <http://live.transcarebc.button.build/tid-federal-documents/#c=3001>
32. **Criminal Code**, RSC 1985, c C-46, s 495.
33. **R v Oickle, 2000** SCC 38 at para 15.
34. **BC Motor Vehicle Act**, RSBC 1996, c 318, s 94.
35. **Canadian Charter of Rights and Freedoms**, s 7, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
36. **Canadian Charter of Rights and Freedoms**, s 12, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
37. **BC Motor Vehicle Act**, RSBC 1996, c 318, s 73, s 74.
38. **Office of the Correctional Investigator, “Annual Report 2018-2019” online:** <https://oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20182019-eng.pdf> [Office of the Correctional Investigator].
39. **“BC Corrections Policy Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.”** [BC Corrections Policy].
40. **BC Reg 58/2005**, s 17, 18, 19.
41. **“Commissioner’s Directive 081 Offender Complaints and Grievances” online:** <https://www.oci-bec.gc.ca/cnt/complaint-plainte-eng.aspx>
42. **R v Golden, 2001** SCC 83 is the leading case on strip searches. It mentions that it should be done at a police station (unless there are exigent circumstances) with an officer of the same gender. The officer requires reasonable and probable grounds for the purposes of safety and/or preventing the destruction of evidence.
43. **Cloutier v. Langlois, [1990]** 1 SCR 158, at paras 58-59, 1990 CanLII 122 (SCC).
44. **Canadian Charter of Rights and Freedoms**, s 10, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
45. **“What is expungement?” online:** [https://www.canada.ca/en/parole\\_board/services/expungements/expungement.html](https://www.canada.ca/en/parole_board/services/expungements/expungement.html).
46. **Criminal Code**, RSC, 1985 c C-46, s 237.1.

# Healthcare



## HOW CAN I FIND A TRANS-COMPETENT DOCTOR?

Finding a trans-competent doctor is an important aspect of receiving quality health care. To find a trans-competent doctor near you, contact the PHSA care coordination Team.

Care Coordination Team Contact Information:

- Phone: Toll-free (BC): 1-866-999-1514
- Outside of BC or unable to call a toll-free number: 604-675-3647
- Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)
- Online: fill out the contact form: <http://www.phsa.ca/transcarebc/about/contact>

## HOW DO I GET ACCESS TO BINDERS, PACKERS, AND PROSTHETICS?

This link gives an overview of the different options and instructions, and links to different resources about each option for non-surgical gender expression:

<http://www.phsa.ca/transcarebc/care-support/transitioning/bind-pack-tuck-pad>

If you are a youth aged 12-26 in the Kamloops area, Safe Spaces is now providing free binders (one per person).

Safe Spaces Contact:

- call or text 250-371-3086 to speak to the Program Coordinator
- email to [sspaces@interiorcommunityservices.bc.ca](mailto:sspaces@interiorcommunityservices.bc.ca)
- website: <https://www.interiorcommunityservices.bc.ca/programs/youth/safe-spaces>

## WHAT IS HORMONE THERAPY? WHAT ARE THE CRITERIA FOR HORMONE THERAPY ELIGIBILITY?

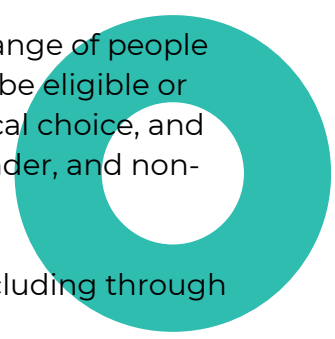
Hormone therapy is a medically necessary form of treatment for a wide range of people for a variety of reasons, and you do not have to identify as transgender to be eligible or receive hormone therapy. Access to hormone therapy is a personal medical choice, and many individuals access hormone therapy including cis-gender, transgender, and non-binary people, as well as people who are genderqueer or gender-diverse.

There are several different routes in BC to accessing hormone therapy including through the provincial health insurance program, or through private means.

The four criteria for hormone therapy for adults are:

- persistent, well-documented gender dysphoria
- capacity to make a fully informed decision and to consent to treatment
- being of the age of majority (in BC, the age of majority is 18).

significant medical or mental health concerns, if present, must be reasonably well controlled.







## ARE THE COSTS OF HORMONE REPLACEMENT THERAPY (HRT) COVERED BY HEALTHCARE PLANS?

Healthcare plans can be public or private. In British Columbia, residents are covered by a public program called Medical Services Plan (MSP). The costs of HRT are not covered by MSP. HRT is sometimes covered by private health insurance plans provided through employers, parents, institutions, or other means. You should contact your private healthcare plan provider to learn more about what is and is not covered under your plan.

If you are a British Columbia resident and you do not have coverage for HRT under a private health insurance plan, you should register for the government's Fair PharmaCare Program. The Fair PharmaCare Program available to families (defined as a single person, married or common law couple, single person with dependent children, or couple with dependent children) that are covered by MSP. Your coverage amount under Fair PharmaCare will depend on your income; the less a family earns, the more help they get.

Under this program, many hormones therapies are covered as well as other prescription needs. To learn more about the Fair PharmaCare program, see: <https://www2.gov.bc.ca/gov/content/health/health-drug-coverage/pharmacare-for-bc-residents/who-we-cover/fair-pharmacare-plan>

If the medication your doctor prescribes is not covered by the Fair PharmaCare Program, you can apply to have it covered by Special Authority, and the form must be filled out by a doctor: [www2.gov.bc.ca/assets/gov/health/forms/5328fil.pdf](http://www2.gov.bc.ca/assets/gov/health/forms/5328fil.pdf)

For a breakdown on specific gender-affirming treatments covered by MSP and PharmaCare, and how to get additional treatments covered, see Appendix E or see: [http://www.phsa.ca/transcarebc/Documents/HealthProf/Funding%20coverage\\_Oct%202021.pdf](http://www.phsa.ca/transcarebc/Documents/HealthProf/Funding%20coverage_Oct%202021.pdf)

If you are not covered under a private health insurance plan which covers HRT, or if Fair PharmaCare does not cover your prescription, then you will have to pay for your own hormone therapy.

## ARE GENDER-AFFIRMING PROCEDURES COVERED UNDER MSP? HOW DO I START THE PROCESS OF GETTING GENDER-AFFIRMING SURGERY?

Not all transgender folks undergo gender-affirming surgeries, but for some they are necessary, life-saving procedures. You need to make a personal decision with your health care provider about the best and safest route to achieving your healthcare needs and goals.

If you have decided that you would like to proceed with permanent, gender-affirming procedures, you need to decide which procedures you would like to have, which surgery you want, and learn about the steps you will need to go through to access these procedures. TransCare BC has a surgery readiness guide as well as resources and support that you can access throughout your healthcare journey. <http://www.phsa.ca/transcarebc/health-professionals/education/surgery>

## Step 1 - Determining Eligibility:

The first mandated step is to determine your eligibility. It is important to remember that you do not have to be trans to be eligible for gender-affirming surgery. All genders, so long as they meet the criteria, are eligible for gender-affirming surgery. These eligibility requirements are outlined on Trans Care BC and are summarized below.:

The criteria for all gender-affirming surgeries are:

- Persistent gender dysphoria
- Capacity to consent to the procedure (you understand the procedure and associated risks and have an aftercare plan)
- Medical and mental health conditions are reasonably well-controlled
- Being of the age of majority (in BC, the age of majority is 19).

*\* Note: Upper surgery is sometimes possible before the age of 19. In some cases, surgeons may recommend an additional readiness assessment for those under 19.*

It is important to note that there are separate requirements for each type of surgery including feminizing surgeries such as, breast augmentation, orchiectomy, vaginoplasty and vulvoplasty, and masculinizing surgeries such as chest reconstruction, hysterectomy or BSO, clitoral release, metoidioplasty and phalloplasty. Please refer to Trans Care BC eligibility requirements here.

## Step 2(a) – Get referred to an assessor:

Once you have determined your eligibility for gender-affirming surgeries, you must get referred to an assessor. You can be referred to an assessor by your primary care provider. TransCare BC states that your primary care provider will either:

1. Send a referral for a surgical readiness assessment directly to a qualified assessor
2. Send a request to Trans Care BC who can refer you to a qualified assessor available in your community
3. Be a qualified assessor and carry out the assessment themselves.

Surgical readiness assessments are funded if done with qualified assessors in the publicly funded healthcare system. There are also private qualified assessors such as psychologists and clinical counsellors. Should you need support in finding a qualified assessor in your community you can contact TransCare BC to assist you.

TransCare BC contact information:

- Phone: Toll-free (BC) 1-866-999-1514
- Phone: 604-675-3647
- Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

It is important to note that depending on the type of gender-affirming surgeries you are interested in; one or two separate assessments may be required. If two assessments are required, they must be carried out by different assessors.

### **Step 2(b) – Getting Assessed:**

The second mandated step is preparing a surgical assessment which ensures that you are prepared for surgery and understand the best possible post-surgical outcomes.

TransCare BC sets out the surgery assessment information here:

[http://www.phsa.ca/transcarebc/Documents/HealthProf/Readiness\\_Assessment\\_Questions.pdf](http://www.phsa.ca/transcarebc/Documents/HealthProf/Readiness_Assessment_Questions.pdf)

An assessment typically lasts between one and two hours and consists of a variety of personal and complex questions. You may need to return for a second visit if you don't have an after-care plan post-surgery.

During the assessment you will be asked about:

- Your gender identity and feelings about your body
- Your expectations of the surgery and how it will impact you socially, emotionally and financially
- Your health history
- Your understanding of the surgical procedure, risks, and post-operative healing process
- Your support network and strategies for thriving in your changing gender expression with family and friends, at work and at school
- Your surgical aftercare plans.

### **Step 3 – Getting Your Recommendation:**

After your assessment, the qualified assessor will make one of three recommendations, surgery is recommended, surgery is *not* recommended at this time, or, return for further assessment. If surgery is not recommended, or you are asked to return for further assessment, the assessor should provide you with next steps, suggestions and/or recommendations.

Once your primary care provider receives a copy of your surgical recommendation from your assessor, they can refer you for surgery.

### **Different Procedures:**

See Appendix A Definitions for a comprehensive list of available procedures in Canada.

### **CAN I ACCESS GENDER-AFFIRMING PROCEDURES IN CANADA?**

The Gender Surgery Clinic at Vancouver General Hospital (VGH). VGH is the only hospital in western Canada that performs lower gender-affirming surgeries, and they offer both feminizing and masculinizing procedures consistent with the guidelines established by the World Professional Association of Transgender Health (WPATH).

There is a gender-affirming clinic in Montreal, GrS Montreal. This clinic has pioneered transgender healthcare for the last two decades. Prior to the Gender Surgery Clinic in Vancouver, accessing certain gender-affirming procedures and surgeries was limited across Canada to this one clinic in Montreal. The Women's College Hospital in Toronto also offers gender-affirming procedures.

Patients have the option of staying in BC for their surgery or flying to Montreal or Toronto. Travel costs are not covered by MSP but there are sometimes community grants and resources to assist with the cost such as: [Hope Air](#), or [BC's Travel Assistance Program](#).



## WHAT ARE MY RIGHTS IF I TRAVEL OUT OF COUNTRY FOR GENDER-AFFIRMING PROCEDURES?

In order to have gender affirming surgery covered by your provincial health care program, the surgery needs to be performed in Canada. Receiving gender-affirming surgery in another country will mean that MSP will not cover the procedure(s). Some people choose to pay the increased cost if they are financially able to, for the reduced wait time.

It is important to note that there are health and financial risks of receiving surgery outside of Canada and there are many factors to consider before deciding if this option is best for you.

If you develop complications or unplanned aftercare while abroad, your provincial health plan may not cover these expenses, and most travel insurance policies will not cover planned medical procedures abroad.

Once you return to Canada, if you develop complications or need greater after care, while your provincial coverage as a resident of BC may cover certain unexpected and life-threatening costs, it can also lead to potential protracted litigation.

## IF MY DOCTOR CANNOT PROVIDE TRANS-COMPETENT CARE, DO THEY HAVE TO REFER ME TO ANOTHER DOCTOR?

If your health care provider lacks training or knowledge about a treatment they are legally allowed to refuse to provide that treatment.

For example, a health care provider may tell you that they do not have enough training to prescribe or monitor HRT. If they are open to learning, you can refer them to PHSA's Trans Care BC [Health Professionals](#) section, which includes resources such as

- WPATH Standards of Care,
- Primary Care Toolkit, and
- RACE (Rapid Access to Consultative Expertise) phone line.

If your doctor has identified that they cannot provide care that respects your needs, they should refer you to another doctor in the area who is more knowledgeable (including referrals to other family doctors). Alternatively, you can contact the PHSA care coordination Team who can recommend a trans competent doctor near you.

Care Coordination Team Contact Information:

- Phone: Toll-free (BC): 1-866-999-1514
- Outside of BC or unable to call a toll-free number: 604-675-3647
- Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)
- Online: <http://www.phsa.ca/transcarebc/about/contact>

## WHAT IF MY DOCTOR REFUSES TO TREAT ME (BASED ON MY TRANSGENDER IDENTITY)?

Discrimination in the provision of medical services is prohibited in British Columbia under the BC Human Rights Code, which ensures protection for individuals who are actual or perceived members of certain protected groups. Such groups are classified by characteristics or protected grounds and include race, ancestry, place of origin, religion, marital status, family status, physical or mental disability, gender, sex, sexual orientation, and age.

The Canadian Medical Association (CMA) is a national organization that works to drive positive change in the medical system for both physicians and patients. The CMA's Code of Ethics and Professionalism provides a similar prohibition against discrimination of patients on the grounds of age, gender, marital status, medical condition, national or ethnic origin, physical or mental disability, political affiliation, race, religion, sexual orientation, or socioeconomic status.

Neither the BC Human Rights Code nor the CMA Code of Ethics and Professionalism removes the registrant's right to refuse to accept a patient for legitimate reasons, as determined in law. For example, a walk-in clinic that has reached capacity for the day can refuse to see further non-emergent patients. However, if the doctor is simply refusing to provide treatment on the basis of your trans identity, it may be a case of discrimination.

The Practice Standards for doctors in British Columbia are provided by the College of Physicians and Surgeons of British Columbia (CPSBC), the regulatory body of all physicians in British Columbia. The Practice Standards on Access to Medical Care allow doctors to have a conscientious objection for providing certain treatments that go against their personal conscientious beliefs.

A common example of this is religious objections to providing abortions, or physician-assisted suicide. While doctors may make a personal choice not to provide a treatment or procedure based on their values and beliefs, they are expected to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes advising patients that other doctors or surgeons may be available to see them or suggesting that the patient visit a different health care provider. Doctors must not abandon a patient with unaddressed medical needs.

Despite conscientious objections, CPSBC does not tolerate discrimination and carefully investigates allegations of discrimination. If you believe you are being discriminated against, you can file a complaint with CPSBC or file a human rights complaint. In some cases, you may need to file both.

For detailed information on filing a complaint with the College of Physicians and Surgeons of British Columbia, visit: <https://www.cpsbc.ca/public/complaints>

For detailed information on filing a human rights complaint or to receive support in the process, visit [Trans Rights BC](#).

## WHAT IF MY HEALTH CARE PROVIDER IS NOT PROVIDING QUALITY CARE OR FOLLOWING THE BEST STANDARDS OF PRACTICE?

Trans Rights BC provides the following steps that can be taken if your health care provider is not providing quality care or following the best standards of practice:

1. Talk to the healthcare provider about the problem and how you would like to see it resolved. You may wish to bring a support person or have a friend or advocate speak on your behalf. Keep notes about the problem and how you tried to resolve it.
2. If you cannot resolve the problem with the healthcare provider directly, check to see if they have a manager you can speak with. Explain the problem, what steps you took to resolve it, and what you feel would solve the problem. The manager may be able to help you find a solution.
3. If this does not solve the problem, you can file a complaint with the healthcare provider's professional body.
4. If the healthcare service was provided in a clinic operated by one of the provincial health authorities, you can file a complaint with a Patient Quality Care Office.
5. If you are not satisfied with the Patient Quality Care Office's response, you can request a review of the matter.

In any of these situations, you can try to find another healthcare provider willing to accept you as a patient. It can be difficult to find a healthcare provider who is trans-friendly and knowledgeable about trans health. Contact the Transgender Health Information Program for the names of doctors in your area who are known to provide health care to trans people.

## HOW DO I START A COMPLAINT AGAINST A HEALTHCARE PROVIDER?

Patient Care Quality Review Boards (PCQO) Make a Complaint:

- PCQO Address:
  - 505 Doyle Avenue
  - Kelowna BC V1Y 0C5
- Telephone: 1-877-IHA-2001 (1-877-442- 2001) (toll-free)
- Fax: 250-870-4670
- Email: [patient.concerns@interiorhealth.ca](mailto:patient.concerns@interiorhealth.ca) Website: [www.interiorhealth.ca](http://www.interiorhealth.ca)

Provincial Health Services Authority (includes provincial agencies and services such as: BC Ambulance Service, BC Cancer Agency, BC Centre for Disease Control, BC Children's Hospital and Sunny Hill Health Centre for Children, BC Mental Health and Addiction Services, BC Provincial Renal Agency, BC Transplant Society, BC Women's Hospital & Health Centre, and Cardiac Services BC)

PCQO Address:

Suite 200, 1333 West Broadway St

Vancouver BC V6H 4C1

Telephone: 1-888-875-3256 (toll-free) Fax: 604-708-2762

Email: [pcqo@phsa.ca](mailto:pcqo@phsa.ca)

Website: [www.phsa.ca](http://www.phsa.ca)

## Filing a Human Rights Complaint

Human Rights Complaints Summary on Trans Rights BC:

<http://www.transrightsbc.ca/takeaction/human-rights-complaints/>

For detailed information on filing a human rights complaint in BC, see The Human Rights Complaint Process for Transgender People in BC by Barbara Findlay, QC - Appendix C

*\* Note: There is a 1-year limitation period to file your human rights complaint and it is free to file*

### Summary of Transgender Rights BC Human Rights Complaints:

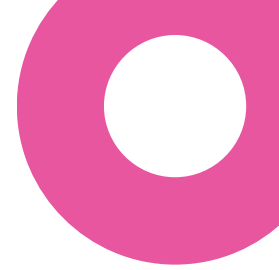
1. It is free to file the forms for a Human Rights Complaint. You can handle the process yourself, or you can find an advocate to assist you and to represent you at the Tribunal. Some advocates charge a fee to represent you.
2. Make your complaint as soon as possible. If you do not make your human rights complaint within 6 months of an incident, you will probably lose your opportunity to bring forward a complaint.
3. It will not be enough to say that the incident happened because you are transgender. You will need to include information in your complaint that shows the link between what happened to you and the fact that you are transgender (for example, someone called you a 'tranny').
4. If your complaint is accepted, the Tribunal will send a copy to the person or organization you complained about. They will be given a chance to respond.
5. You will be given an opportunity to attend a settlement conference with the other side. The purpose of the conference is to see if you can work things out with a mediator from the Tribunal. Many human rights complaints are settled at this stage.
6. If you and the other side cannot agree on a settlement, a hearing is scheduled. The hearing takes several days or more. You will need to attend in person. The person hearing the complaint will usually issue a decision weeks or months later. The entire process can take years.
7. The Tribunal has a wide range of powers to remedy any discrimination. For example, the Tribunal can order that the discrimination stop, tell the other side to take steps to resolve the effects of the discrimination, tell the other side to make policies to prevent discrimination from happening again, and award you money for injury to your dignity, feelings and self-respect.
8. If you are not satisfied with the result, you may be able to apply to the BC Supreme Court for a review of the decision within 60 days of the final decision.

# Healthcare References

1. **Trans Care BC, “Hormone Therapy”:** <http://www.phsa.ca/transcarebc/hormones/hormone-therapy>
2. **“Fair PharmaCare Plan” online:** <https://www2.gov.bc.ca/gov/content/health/health-drug-coverage/pharmacare-for-bc-residents/who-we-cover/fair-pharmacare-plan>
3. **Trans Care BC, “Surgery Assessment” online:** <http://www.phsa.ca/transcarebc/surgery/how-to-get-surgery/surgical-care-planning>
4. **“Receiving Medical Care outside Canada guide” online:** <https://travel.gc.ca/travelling/health-safety/medical-care-outside-canada>
5. **College of Physicians and Surgeons of British Columbia, “Practice Standard: Access to Medical Care” online:** <https://www.cpsbc.ca/files/pdf/PSG-Access-to-Medical-Care.pdf>
6. **“Healthcare” Trans Rights BC, online:** <https://www.transrightsbc.ca/know-your%20rights/healthcare/>
7. **“Human Rights Complaints” online:** <https://www.transrightsbc.ca/take-action/human-rights%20complaints/>



# Youth Healthcare



## AS A YOUTH, AM I ALLOWED ACCESS TO HRT AND WHAT DOES THIS PROCESS LOOK LIKE?

If you are a youth (under 19) and would like to learn about if you can access HRT, you should discuss this with your medical provider. There are two stages of hormone therapy for youth: Puberty Blockers and Hormone Therapy.

When your body begins puberty, you can start taking a medication called a puberty blocker. This delays the changes that happen during puberty. Using puberty blockers does not mean that you have to start hormone therapy later on.

When you're around age 16, you can decide if you want to start hormone therapy. Hormone therapy is used to make your secondary sex characteristics more masculine, feminine, or androgynous. Medications used by youth are generally the same ones used by adults.

### **PUBERTY BLOCKERS:**

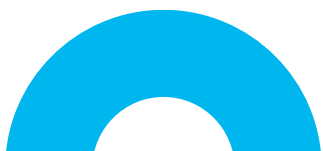
Puberty blockers are medications that suppress the sex hormones that are produced by the body. These medications may be started soon after puberty begins. They put puberty on pause and can prevent changes such as voice lowering, breast growth and periods. Effects will vary depending on how far puberty has progressed before starting the blockers.

There are no known irreversible effects of puberty blockers, so if your child were to stop taking them their body would continue through puberty, picking up where it left off. These medications have been safely used for decades to treat children with precocious puberty, and were first used with transgender youth in the 1990's.

There are three main reasons that youth use puberty blockers.

1. The onset of puberty and the idea or reality of developing secondary sex characteristics that do not fit with their gender identity can be very distressing, and puberty blockers can help alleviate this stress by pausing the development of those characteristics.
2. If a child is still exploring their gender, puberty blockers allow additional time to explore without worrying about unwanted physical changes.
3. Preventing unwanted physical changes can eliminate the need for some surgeries and procedures later on, such as male chest contouring and electrolysis.

Puberty blockers are often prescribed by a pediatric endocrinologist, but pediatricians and family physicians who are knowledgeable about transgender care may provide this treatment as well. For more detailed information, see our Puberty Blockers page.



## IN REGARD TO HORMONE BLOCKERS, CAN A TRANSGENDER YOUTH'S PARENTS PREVENT THEM FROM RECEIVING THIS TREATMENT?

In British Columbia, there is no stipulated age of consent for treatment. A parent or guardian can instruct the health care provider and give or refuse consent on the child's or teenager's behalf, but the child can give their own instructions if they are determined to be capable of making their own health decisions.

There is no set age that a youth is considered capable of making their own medical decisions, it is instead determined on a case-by-case basis. The British Columbia Infants Act applies to all individuals under the age of 19, also referred to as the age of majority.

This Act states that infants can consent to a treatment if:

- The health care provider has explained to the infant and they understand the nature, consequences, and the reasonably foreseeable benefits and risks of the treatment, and;
- The health care provider has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests.

In a decision from the British Columbia Court of Appeal, the court relied on the Infants Act to determine that a 14-year-old transgender boy had the exclusive right to consent to receiving gender-affirming treatment. His parents did not have the right to stop his treatment as he was found to be capable of making his own medical decisions.

For hormone blockers and hormone and hormone replacement therapy, the doctor will ensure the youth has a Hormone Readiness Assessment. The hormone readiness assessment of a youth is typically conducted by a qualified mental health professional, such as a therapist or psychologist.

After the Hormone Readiness Assessment is complete, you will be referred to a pediatric endocrinologist who prescribes and monitors the treatment. In some cases, a primary care provider such as a pediatrician may be involved in your assessment and treatment.

For youth, when you visit your mental health professional to talk about starting puberty blockers or hormones, they will likely want to discuss:

- how you understand your gender identity
- the way you express your gender identity
- how you feel about your body
- how you are doing emotionally
- your relationships with peers and family
- your experiences at school and in the community
- what to expect from puberty blockers and hormone treatments
- what puberty blockers and hormone treatments will not do

For recommendations of mental health professionals who work with transgender youth, contact Trans Care BC.

- Phone: Toll-free (BC): 1-866-999-1514
- Outside of BC or unable to call a toll-free number: 604-675-3647
- Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

## WHAT INFORMATION CAN A DOCTOR DIVULGE TO A YOUTH'S PARENTS, DESPITE DOCTOR-PATIENT CONFIDENTIALITY?

If you are considered to be capable of making your own medical decisions, you have a right to doctor-patient confidentiality. This means that a doctor cannot not divulge information to a youth's parent or guardian without permission.

There is no set age that a youth is considered capable of making their own medical decisions, it is instead determined on a case-by-case basis. A youth is considered capable of making their own medical decisions if they understand:

- The need for a medical treatment
- What the treatment involves
- The benefits and risks if you get or do not get the treatment

In most situations, a child or teenager can talk to their doctor about things they may not want to talk to their parents or guardian about. There are a few important exceptions to doctor-patient confidentiality:

- If a doctor believes you are being abused or that you might harm yourself or others, they have a legal duty to take steps to protect you by reporting this to the child protection authorities or following mental health laws.
- Some doctors may also insist on informing a youth's parent or guardian if they treat them. You should discuss your desire for confidentiality up front with your doctor at the beginning of your appointment to ensure it will not be an issue.

# Youth Healthcare References

1. **Trans Care BC, “Hormone Therapy” online:** <http://www.phsa.ca/transcarebc/hormones/hormone-therapy>.
2. **Trans Care BC, “Medical Affirmation & Transition” online:** <http://www.phsa.ca/transcarebc/child-youth/affirmation-transition/medical-affirmation-transition#Puberty--Blockers--&--Hormones>
3. **Health Information Privacy in British Columbia “Children and Teenagers” online:** <https://fipa.bc.ca/get-help/health-information-confidentiality/>
4. **AC v. Manitoba (Director of Child and Family Services), 2009 SCC 30.**
5. **Infants Act, RSBC 1996 c 223, s 17.**
6. **AB v CD, 2020 BCCA 11.**
7. **Trans Care BC, “Hormone Readiness” online:** <http://www.phsa.ca/transcarebc/hormones/readiness>
8. **“Medical Rights: Consent and Confidentiality” online:** <https://www.legalrightsfor youth.ca/medical-rights/consent-and-confidentiality#:~:text=If%20you%20are%20considered%20capable,to%20anyone%2C%20including%20your%20parents>
9. **“Do you need your parents’ permission to get medical care?” online:** <https://family.legalaid.bc.ca/children/information-children-teens/do-you-need-your-parents-permission-get-medical-care>

# Youth Rights

## IF I AM STRUGGLING OR FEEL UNSAFE, WHO CAN I CALL OR REACH OUT TO?

If you need to talk to someone immediately, the BC Kids Help Phone is there for you.

There is 24-hour service to talk to a professional counsellor right away. The Kids Help Phone is a counselling, referral, and support service for children and youth under the age of 20 years old. Professional counsellors provide immediate and caring support to young people who are dealing with a problem, making a hard decision, or concerned with feelings or mood. The service is free, confidential, and anonymous.

BC Kids Help Phone:

1-800-668-6868

<https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>

### Other potential resources:

- Trans Care BC is a province-wide program to enhance and co-ordinate transgender health services and support across the province. This organization provides free services on information to transgender health, wellness, and help with accessing health care for youth and adults. Trans Care BC does not provide direct clinical care or counselling services, but they will happily provide referrals to someone who does. <http://www.phsa.ca/transcarebc/child-youth>
- QMUNITY is a non-profit organization based in Vancouver, B.C., dedicated to improving queer, trans, and Two-Spirit lives. Various services are provided, including youth drop-ins, the “Bra, Binder, and Breast” exchange program to provide free new and used gender-affirming chest wear for youth who cannot attain these garments otherwise, information and referrals for 2SLGBTQAI+ and allied youth, and support for parents. <https://qmunity.ca/get-support/youth/>

## WHAT ARE SOME LOCAL YOUTH CENTRES AND SAFE SPACES?

Interior Community Services (ICS) is a non-profit multi-service agency which provides support to youth, and all other ages.

Whether for emergency services, providing an educational or support role, or for a safe space, please do not hesitate to contact ICS for their many different services:

<https://www.interiorcommunityservices.bc.ca/contact-us>

## WHAT ARE YOUR OPTIONS IF A PARENT/GUARDIAN REFUSES TO USE GENDER AFFIRMING PRONOUNS AND ACKNOWLEDGE TRANSITION NEEDS?

It is only the guardian that may hold parental responsibilities such as daily decisions for the child, important decisions like medical treatment or education, receiving information about the child from others, and protecting the child's financial and legal interests. A parent is usually a guardian of their child, with some exceptions. A parent can be removed as guardian, and a non-parent can become a guardian.

In *AB v CD* 2020, an important case in British Columbia, the judge affirmed a number of rights and protections for transgender youth, including:

- For transitioning youth, this case affirmed that children can consent to medical transition under section 17 of the Infant Act.
- A parent/guardian misgendering their child constitutes 'family violence' under section 1 of the Family Law Act.

AB is a transgender teenager, assigned female at birth but identifies as male. At school he went by his correct name and pronouns. In 2018 he sought medical assistance to address his gender dysphoria and pursue a physical transition.

AB's mother, EF, has been supportive of his efforts to pursue a physical transition; his father, CD, has not. AB's medical team determined he was sufficiently mature to make treatment decisions and developed a medical plan they felt was in his best interest. EF consented, but CD did not.

The medical team sought to arrange a meeting with CD, but after several months of unsuccessfully trying to do so, informed CD that, as AB had the right to consent himself, the treatment would proceed, which the court upheld. This was confirmed as settled law in a similar case, *AM v Dr. F*, 2021.

Section 37 of the Family Law Act states that parents must consider the best interests of their child. Best interests include the child's health and emotional well-being, and the child's views. In *AB v CD* it was ruled that under section 37 of the Family Law Act that AB, who transitioned to male, be "acknowledged and referred to as male... now or in the future" and to use only male pronouns when making any references to him.

If a parent refuses, this is a violation of section 37 under the Family Law Act.

There are professionals and community spaces to assist you in the next steps you may want to take. Please contact someone at [Safe Spaces Kamloops](#) if you are seeking help.

Safe Spaces Kamloops is a publicly funded program for youths aged 12-26 who may identify as 2SLGBTQPIA+ and their allies. Youth-driven groups meet weekly with one-to-one support services offered as needed. Workshops and presentations on Gender and Sexual orientation are also provided in Kamloops and surrounding communities.

## ARE THERE PROTECTIONS FOR THE CHILD IF THE TIME SPENT IS COURT ORDERED?

Section 37 of the Family Law Act states that parents, respecting guardianship, parenting arrangements, or contact with a child, the parties must consider the best interest of the child only. This includes the child's health and emotional well-being, and the child's views.

Section 37(3) states that "an agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being."

## WHAT PROTECTIONS DO TRANSGENDER STUDENTS HAVE AGAINST DISCRIMINATION BASED ON THEIR GENDER IDENTITY OR EXPRESSION IN SCHOOLS?

If you would like to file a complaint against a teacher, you may do so by filing a complaint with the Commissioner for Teacher Regulation. The Commissioner for Teacher Regulation is an independent decision maker who oversees the discipline process for certified educators in British Columbia.

The Commissioner for Teacher Regulation states that most concerns can be best dealt with at the school, and that before submitting a complaint your concerns should be discussed with the educator or their supervisor. Boards of education and other independent school authorities each have their own policy and process with complaints.


Complainants must go through their local school board complaint process before being submitted to the Commissioner. Complaints can be filed with The Commissioner for Teacher Regulation here:

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/commissioner-for-teacher-regulation>


Alternatively, one can also file a complaint through the BC Human Rights Code. The BC Human Rights Code is a law in B.C. with the purposes of:

- Fostering a society in B.C. where there are no barriers to full and free participation in the economic, social, political and cultural life of B.C.
- Promoting a climate of understanding and mutual respect where all are equal in dignity and share equal rights
- Preventing discrimination
- Identifying and eliminating common patterns of inequality associated with discrimination
- Providing a means of correction and reform for those persons who are discriminated against contrary to the Code

The BC Human Rights Code prohibits any type of discrimination in certain areas of activity (for example, the workplace or school). The Code also created the tribunal and a process for making and resolving complaints of discrimination.



Section 8 of the BC Human Rights Code protects students from bullying, harassment, and discrimination. These protections specifically protect mistreatment based on gender identity and expression. As transgender youth, you have the right to accommodations, which include, but are not limited to:

- You have the right to be called your correct name and pronouns, even if they are not your legal name or sex;
  - You have the right to use the bathroom and locker room that corresponds to your gender identity or to have accommodations made for you that make you feel the safest;
  - You have the right to play on the sports team that corresponds with your gender identity;
  - You have the right to wear the clothing that corresponds with your gender expression;
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These rights apply to students in both public and independent schools in Kamloops.

*\* Note: official complaints must be made within one year of the violation.*

## OTHER RESOURCES

### **Kamloops:**

Interior Community Services (ICS) is a non-profit multi-service agency which provides support to youth, and all other ages. Whether for emergency services, providing an educational or support role, or for a safe space, please do not hesitate to contact ICS.123: <https://www.interiorcommunityservices.bc.ca/contact-us>

Safe Spaces Kamloops is a publicly funded program for youths aged 12-26 who may identify as 2SLGBTQPIA+ and their allies. Youth-driven groups meet weekly with one-to-one support services offered as needed. Workshops and presentations on Gender and Sexual orientation are also provided in Kamloops and surrounding communities


- Website: <https://www.interiorcommunityservices.bc.ca/programs/youth/safe-spaces>
  - Phone: 250-371-3086
- 

If you need to talk to someone immediately, the BC Kids Help Phone is there for you. The Kids Help Phone is a counselling, referral and support service for children and youth under the age of 20 years old. Professional counsellors provide immediate and caring support to young people who are dealing with a problem, making a hard decision, or concerned with feelings or mood. The service is free, confidential, anonymous and available 24 hours a day.

BC Kids Help Phone:

- 1-800-668-6868
- <https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>

Trans Care BC is a province-wide program to enhance and co-ordinate transgender health services and support across the province. This organization provides free services related to transgender health, wellness, and help with accessing health care for youth and adults, and can provide referrals for clinical care or counselling services.

- Phone toll-free: 1-866-999-1514
  - <http://www.phsa.ca/transcarebc/child-youth>
- 



**Vancouver:**

QMUNITY is a non-profit organization based in Vancouver, BC, dedicated to improving queer, trans\*, and Two-Spirit lives. Various services are provided, including youth drop-ins, the “Bra, Binder, and Breast” exchange program to provide free new and used gender-affirming chest wear for youth who cannot attain these garments otherwise, information and referrals for 2SLGBTQAI+ and allied youth, and support for parents.

<https://qmunity.ca/get-support/youth/>

Rainbow Refugee is a community group based in Vancouver that offers support to people seeking refugee protection in Canada because of persecution based on their sexual orientation, gender identity or expression, or HIV status.

<https://www.rainbowrefugee.com/>

# Youth Rights References

1. **HealthLink BC, “Kids Help Phone” online:** <https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>
2. **Trans Care BC, “Who We Are” online:** <http://www.phsa.ca/transcarebc/about/who-we-are>
3. **QMUNITY “Youth Services” online:** <https://qmunity.ca/get-support/youth/>
4. **“About Us” Interior Community Services online:** <https://www.interiorcommunityservices.bc.ca/about-us>
5. **British Columbia, “What does it mean to be a guardian?” online:** <https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law/parenting-apart/what-does-it-mean-to-be-a-guardian>
6. **AB v CD, 2020** BCCA 11.
7. **Infant Act, RSBC 1996**, c 223, s 17.
8. **Family Law Act, SBC 2011**, c 25, s 1
9. **AM v Dr. F, 2021** BCSC 32.
10. **Interior Community Services, “Safe Spaces Annual Report 2019”, online:** *Interior Community Services:* [https://www.interiorcommunityservices.bc.ca/application/files/8615/9777/5013/Safe\\_Spaces\\_2019.pdf](https://www.interiorcommunityservices.bc.ca/application/files/8615/9777/5013/Safe_Spaces_2019.pdf)
11. **“Commissioner for Teacher Regulation” online:** <https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/commissioner-for-teacher-regulation>
12. **Human Rights Code, RSBC 1996**, c 210, s 3, 8, 22
13. **Trans Rights BC “Knowing Your Rights: Education” online:** <http://www.transrightsbc.ca/know-your-rights/education/>
14. **Trans Care BC, “Who We Are” online:** <http://www.phsa.ca/transcarebc/about/who-we-are>
15. **“About Us” Rainbow Refugee, online:** <https://www.rainbowrefugee.com/vision-mission-and-core-values>

# Education

## WHAT IS THE STRUCTURE OF POWER FOR SCHOOLS IN BC?

Every school in BC will have a principal, who handles the day-to-day running of that individual school. Principals are usually responsible for hiring teachers and overseeing education within that school. Your principal is usually a great place to start if you have any concerns or complaints about your school.

The principals are overseen by the School Districts. Each School District covers a certain geographical area, and oversees all public schools in that area. Each School District is governed by a School Board, which is made of elected “trustees.” If you are eligible to vote, you can vote for your District’s trustees every 4 years. You can find out [which School District you live in](#), and who your current elected School Board trustees are, [here](#).

Every School Board hires a Superintendent, who is the top authority for supervising schools, implementing curriculum and other programs, and managing the district’s budget. They are meant to work together with the School Board trustees to keep the School District running smoothly. If you have a concern about your school, your Superintendent is the “top of the food chain” when it comes to your school’s policies and decisions. You can find a list of current Superintendents by School District [here](#), along with contact information for each Superintendent in BC.

School Districts and their Superintendents report to the [BC Ministry of Education](#), which is led by the Minister of Education. Each province has their own Minister of Education, who is the top authority over education in that province. Ministers of Education are appointed by BC’s provincial government. The Minister and Ministry of Education oversee funding for the province’s education programs, create legislation related to education, and manage the development of provincial curriculum.

Independent or religious schools have a slightly different hierarchy. They may have their own school board (elected by a process of their choice), and do not report to any School District. Instead, they report directly to the Ministry of Education. This means, unfortunately, if you have a concern with your school and cannot get a resolution through your Principal, you do not have a Superintendent to contact.

Schools often will have [Parent Advisory Councils](#), which are groups of parents that can bring concerns to the Principal, do fundraising for student activities, and run after-school programs, among other things. If you have a concern about your school or want to advocate for a particular program/activity at your school, you may be able to talk to a PAC.

Finally, there is an independent Commissioner appointed every 5 years responsible for overseeing and disciplining teachers in BC. The [Commissioner for Teacher Regulation](#) can review teacher conduct and implement disciplinary action if a teacher is found to have violated the [standards for educators](#). If you have a concern regarding a teacher at your school, you can take that concern to your Principal and/or the Commissioner. The process for submitting a complaint to the Commissioner can be found [here](#).

## HOW DO I CONTACT THE PEOPLE IN CHARGE OF EDUCATION IN BC?

### Ministry of Education (Office)

1-800-663-7867

servicebc@gov.bc.ca

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/education>

### Minister of Education:

Hon. Jennifer Whiteside

250 356-8247

EDUC.Minister@gov.bc.ca

<https://www.leg.bc.ca/learn-about-us/members/42nd-Parliament/Whiteside-Jennifer>

### Deputy Minister of Education:

Christina Zacharuk

778 698-8536

DM.Education@gov.bc.ca

The ultimate power over education in BC is the Ministry of Education. Contact info for the Ministry Office, and the current Minister and Deputy Minister, are below.

You can also contact your School District's Superintendent and members of your School Board. To find your School District and their contact info, you can either ask at your school office or look it up by map, city, or school name here:

<http://www.bced.gov.bc.ca/apps/imcl/imclWeb/Home.do>


## WHAT ARE MY RIGHTS AS A 2LGBTQIA+ STUDENT?

Section 15 of The Canadian Charter of Rights and Freedoms states that “every individual is to be considered equal regardless of religion, race, national or ethnic origin, colour, sex, age or physical or mental disability”.

In Egan v. Canada, Supreme Court of Canada held that although an individual's sexual orientation is not listed as a ground for discrimination in section 15, it constitutes an equivalent ground on which claims of discrimination may be based. This means that although sexual orientation is not listed under section 15 of the Charter, it is included.

As a student, if you feel you have been discriminated against due to your sexual orientation, this is a valid ground for a claim of discrimination for breaching your section 15 rights.


The Canadian Human Rights Act also prohibits all discrimination on the basis of gender identity throughout Canada, and the BC Human Rights Code protects all BC residents against discrimination based on gender identity. Under these laws you have the right to not face discrimination based on your sexuality or gender identity. This includes being referred to by your pronouns and name of choice.



In *Nelson v Goodberry Restaurant Group Ltd.*, the BC Human Rights Tribunal held that referring to someone by their deadname, incorrect pronouns, and gendered nicknames can amount to discrimination.

Additionally, school boards in BC have a legal obligation under the Safe and Caring School Communities policy, which all public schools in BC must abide by. This policy is intended to guide school authorities in their efforts to create safe and inclusive learning environments and to develop protocols “for preventing and intervening in instances of bullying and other worrisome behaviours”.

This means that schools have a legal obligation to accommodate all students so they can participate equally with other students in the classroom, including 2SLGBTQIA+ students.



If you feel you are being bullied, harassed, and discriminated against in school due to your sexual orientation, gender identity or expression, the school has failed its legal duty. School boards that do not currently have policies ensuring that 2SLGBTQIA+ students are accommodated in these ways must modify their policies in order to meet their legal obligations.

In most situations, the first step to enforcing your rights will be having a conversation with your school. If the school fails to follow their policy, or refuses to accommodate you, the next step in most school districts is to talk to the Office of the Superintendent. We have included letter templates at the end of this resource to help 2SLGBTQ+ students in BC have these conversations.

Another option is to file a human rights complaint, as a tribunal can order that the school stop discrimination and develop accommodating policies.

You can file a Human Rights Complaint provincially through the BC Human Rights Tribunal, but this typically requires hiring a lawyer and going through a legal process. You can get free advice regarding Human Rights in BC and legal services through the BC Human Rights Clinic, and free information on Human Rights in BC through the BC Human Rights Commission. For detailed information on filing a human rights complaint in BC, refer to The Human Rights Complaint Process for Transgender People in BC.

You can also file a Human Rights Complaint federally through the federal Human Rights Tribunal. See their website here.

Procedures related to the Safe and Caring School Communities policy:

- Harassment and Bullying Prevention Policy
- Safe School Coordinators (and teams) and erase training
- Student Safety Communication Protocols
- erase Report It Tool (anonymous online reporting tool)
- Violence Threat Risk Assessment community protocols (in collaboration with public school districts and community agencies)



## WHAT ARE MY RIGHTS AS A 2LGBTQIA+ TEACHER?

Section 15 of the Canadian Charter of Rights and Freedoms states that “every individual is to be considered equal regardless of religion, race, national or ethnic origin, colour, sex, age or physical or mental disability”.

In *Egan v. Canada*, the Supreme Court of Canada held that although an individual’s sexual orientation is not listed as a ground for discrimination in section 15, it constitutes an equivalent ground on which claims of discrimination may be based. This means that although sexual orientation is not listed under section 15 of the Charter, it is included.

As a teacher, if you feel you have been discriminated against due to your sexual orientation, this is a valid ground for a claim of discrimination for breaching your section 15 rights.

Additionally, according to the BC Human Rights Code section 13(1), an employer may not discriminate against a person regarding employment or any term or condition of employment due to “sex, sexual orientation, gender identity or expression.” This includes refusing to employ or refusing to continue to employ after learning about a person’s sexual orientation, gender identity or expression.

In *Nelson v. Goodberry Restaurant Group Ltd.*, the human rights tribunal found that it is discriminatory to refer to an employee by other than their chosen pronouns and ordered the creation of a policy requiring employees to be addressed by their preferred pronouns, and to require the managers to be trained in that policy.

If a school refuses to employ you on the basis of your sexual orientation, gender identity or expression, or if the school in which you are currently working refuses to continue your employment on the basis of your sexual orientation, gender identity or expression, they have violated your rights under section 13(1) of the BC Human Rights Code and your section 15 Charter rights.

You have the option to:

- make a provincial human rights complaint
- make a federal human rights complaint
- [contact the BC Teachers’ Federation](#)

The BCTF hosts virtual meetups for LGBTQ2S+ teachers in BC, which may be able to provide support and information for you. You can find more information [here](#). The BCTF also handles all matters of [teacher advocacy in BC](#).

To pursue a provincial human rights complaint under the BC Human Rights Act, refer to the British Columbia Human Rights Tribunal’s [website](#).

To pursue a human rights violation under the federal Human Rights Act, you must file a complaint with the federal Human Rights Tribunal. See their website [here](#).

## WHAT ARE MY RIGHTS AS A 2SLGBTQIA+ STUDENT AT AN INDEPENDENT OR RELIGIOUS SCHOOL?

School boards in BC have a legal obligation under the BC Human Rights Code to ensure that their schools are free from bullying, harassment, and discrimination. This legal obligation includes accommodating students with particular needs so they can participate equally with other students in the classroom, including 2SLGBTQIA+ students.

If you attend an independent school, however, they may argue against 2SLGBTQIA+ accommodation due to religious reasons.

If discrimination is found, the BC Human Rights Tribunal has the authority to order that the school stop discrimination and develop accommodating policies in order to accommodate you.

You can file a Human Rights Complaint provincially through the [BC Human Rights Tribunal](#), but this typically requires hiring a lawyer and going through a legal process.

You can get free advice regarding Human Rights in BC and legal services through the [BC Human Rights Clinic](#), and free information on Human Rights in BC through the [BC Human Rights Commission](#). For detailed information on filing a human rights complaint in BC, refer to [The Human Rights Complaint Process for Transgender People in BC](#).

You can also file a Human Rights Complaint federally through the federal Human Rights Tribunal. See their website [here](#).

However, it is often best to start with a conversation with your teacher or principal directly. These conversations can be challenging but may help you if you later choose to pursue a human rights complaint. It's important to document these conversations and keep records in case you need them later. We have compiled letter templates at the bottom of this document to help you have these conversations.

## WHAT ARE MY RIGHTS IF MY SCHOOL FORBIDS ME FROM STARTING A GSA GROUP/CLUB?

Starting a club or group to promote understanding of 2SLGBTQIA+ issues is a great way to cultivate a more supportive culture at school. Gender and Sexuality Alliances (GSAs) are groups that allow students of all sexual orientations and gender identities to come together in a safe environment. Within GSAs, students can focus on supporting one another, raising awareness about 2SLGBTQIA+ issues, and promoting a greater understanding of gender identity and sexual orientation. A resource on starting a GSA can be found [here](#).

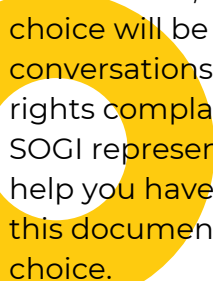
If you are following your school's code of conduct, no one has the right to stop you from starting a GSA in your school. If a school permits any non-curricular clubs, it cannot treat a GSA differently from other clubs. If your school forbids you from starting a GSA or similar club on the basis of your sexual orientation or gender identity, this is a breach against your section 15 rights under the Charter.





## WHAT ARE MY RIGHTS IF MY SCHOOL TELLS ME I CANNOT USE THE BATHROOM OF MY CHOICE?

School boards in BC have a legal obligation under the BC Human Rights Code to ensure that their schools are free from bullying, harassment, and discrimination. This legal obligation includes accommodating students with particular needs so they can participate equally with other students in the classroom, including 2SLGBTQIA+ students. This includes the right of a student to use bathrooms and locker rooms that correspond with their gender identity.

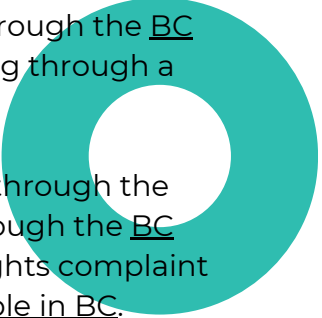


As a student, typically the first step to enforcing your right to use the bathroom of your choice will be a conversation with your principal. It is important to keep records of these conversations, to potentially protect yourself later if you choose to pursue a human rights complaint or other action. You may want to reach out to your school district's SOGI representative, Safe and Caring Schools Representative, or a teacher you trust to help you have this conversation. We have also created a letter template at the bottom of this document to help students communicate their right to use the bathroom of their choice.

If your school refuses to accommodate your need to use the bathroom and locker room that corresponds with your gender identity, the next step in most school districts is to complain to your school district's Superintendent. You can find your Superintendent by district [here](#).


Another option is to file a human rights complaint, as the BC Human Rights Tribunal has the authority to order that the school stop discrimination and develop policies to accommodate you. You can file a Human Rights Complaint provincially through the [BC Human Rights Tribunal](#), but this typically requires hiring a lawyer and going through a legal process.

You can get free advice regarding Human Rights in BC and legal services through the [BC Human Rights Clinic](#), and free information on Human Rights in BC through the [BC Human Rights Commission](#). For detailed information on filing a human rights complaint in BC, refer to [The Human Rights Complaint Process for Transgender People in BC](#).



## WHAT ARE MY RIGHTS IF MY SCHOOL TELLS ME I CANNOT PARTICIPATE ON A SPORTS TEAM BECAUSE OF MY GENDER IDENTITY?

School boards in BC have a legal obligation under the BC Human Rights Code to ensure that their schools are free from bullying, harassment, and discrimination. This legal obligation includes accommodating students with particular needs in order for them to be able to participate equally with other students in the classroom, including 2SLGBTQIA+ students.



Accommodation policies include the right of the student to play on sports teams that correspond with their gender identity, as well as use locker rooms that correspond with their gender identity.

In the case of Harrison Browne, the first transgender athlete in professional hockey, the National Women's Hockey League (NWHL) developed and released the [Premier Hockey Federation Transgender and Non-Binary Player Inclusion Policy](#) in 2016. According to the league, the goal of the policy is to recognize “all forms of gender expression” and to support “athletes choosing to express their gender beyond the binary of female and male,” as well as ensuring all athletes are playing on a balanced playing field, under equal rules.

[BC School Sports](#) oversees organized school sports in our province, and has created [policy](#) allowing transgender and non-binary students to play on sports teams that correspond with their gender identity. Their codes of ethics for both student-athletes and coaches explicitly prohibit discrimination based on sexuality and gender identity.

As a student, if the school refuses to accommodate your right to play on sports teams and use the locker room that corresponds with your gender identity, typically the first step will be a conversation with your principal. It is important to keep records of these conversations to potentially protect yourself later if you choose to pursue a human rights complaint or other action.

You may want to reach out to your school district's SOGI representative, Safe and Caring Schools Representative, or a teacher you trust to help you have this conversation. We have also created a letter template at the bottom of [this document](#) to help students communicate their right to play on the sport team that corresponds with their gender identity.

If your school still refuses to accommodate you, the next step typically will be to talk to your school district's Superintendent. You can find your Superintendent by district [here](#). You can also complete an application to the Executive Director of BC School Sports for permission to play on the sports team of your choice. Details on this process can be found [here](#), specifically item 821.3.

An application should include a letter from you sharing your gender identity, and a letter from your principal confirming your gender identity. Keep records of all communication with BC School Sports and, if you are refused accommodation, be sure to keep a record of their reasons for refusal. These records may help you later if you decide to pursue a human rights complaint or other action.

Another option is to file a human rights complaint, as the BC Human Rights Tribunal has the authority to order that the school stop discrimination and develop policies to accommodate you. You can file a Human Rights Complaint provincially through the [BC Human Rights Tribunal](#), but this typically requires hiring a lawyer and going through a legal process.

You can get free advice regarding Human Rights in BC and legal services through the [BC Human Rights Clinic](#), and free information on Human Rights in BC through the [BC Human Rights Commission](#). For detailed information on filing a human rights complaint in BC, refer to [The Human Rights Complaint Process for Transgender People in BC](#).

### **WHAT ARE MY RIGHTS IF MY SCHOOL TELLS ME I CANNOT WEAR THE CLOTHES OF MY CHOICE?**

School boards in BC have a legal obligation under the BC Human Rights Code to ensure that their schools are free from bullying, harassment, and discrimination. This legal obligation extends to accommodating students with particular needs in order for them to be able to participate equally with other students, including 2SLGBTQIA+ students. Accommodation policies include the right of the student to wear clothing that corresponds with their gender expression.

As a student, if the school refuses to accommodate your right to wear clothes that correspond with your gender identity, typically the first step will be a conversation with your principal. It is important to keep records of these conversations to potentially protect yourself later if you choose to pursue a human rights complaint or other action.

You may want to reach out to your school district's SOGI representative, Safe and Caring Schools Representative, or a teacher you trust to help you have this conversation. We have also created a letter template at the bottom of this document to help students communicate their right to wear clothing that corresponds with their gender identity.

If your school still refuses to accommodate you, the next step typically will be to talk to your school district's Superintendent. You can find your Superintendent by district [here](#).

Another option is to file a human rights complaint, as the BC Human Rights Tribunal has the authority to order that the school stop discrimination and develop policies to accommodate you. You can file a Human Rights Complaint provincially through the [BC Human Rights Tribunal](#), but this typically requires hiring a lawyer and going through a legal process.

You can get free advice regarding Human Rights in BC and legal services through the [BC Human Rights Clinic](#), and free information on Human Rights in BC through the [BC Human Rights Commission](#). For detailed information on filing a human rights complaint in BC, refer to [The Human Rights Complaint Process for Transgender People in BC](#).

## WHAT CAN I DO IF I FEEL UNSAFE AT SCHOOL?

If what you are experiencing at school causes harm to your body or makes you fear for your safety, that is a crime. If you fear for your life or safety you should contact your local police or call 9-1-1.

If you need to talk to someone immediately, you can call the [BC Kids Help Phone](#) to talk to a crisis interventionist right away at 1-800-668-6868. With 24 hour service, the Kids Help Phone is a counselling, referral and support service for children and youth under the age of 20 years old. The service is free, confidential, anonymous, and available 24 hours a day.

In BC, school boards have a legal obligation in the BC Human Rights Code and the “Safe and Caring School Communities” policy to ensure that their schools are free from bullying, harassment, and discrimination. If you feel you are being bullied, harassed, and discriminated against in school due to your sexual orientation, gender identity or expression, the school has failed its legal duty. School boards that do not currently have policies ensuring that 2SLGBTQIA+ students are accommodated in these ways must modify their policies in order to meet their legal obligations.

If you feel unsafe at school, typically the first step will be a conversation with your Principal or a trusted school representative. You can ask to speak to your school district’s Safe and Caring Schools Representative, who will be educated on anti-bullying and anti-violence policies. You can also ask to talk to your school district’s SOGI representative, who will be educated on LGBTQ+ rights and discrimination. These conversations can be difficult, so we have created a letter template at the bottom of this document to help you communicate your concerns.

If the school still fails to follow their policy, or refuses to accommodate you, the next step in most school districts is to talk to your school district’s Superintendent. You can find your Superintendent by district [here](#).

It is important to keep a journal of each event of discrimination and harassment you experience. These records can protect you later if you choose to file a human rights complaint, make a police report, or take other action.

If you are experiencing discrimination or harassment, you have the option to file a human rights complaint through the [BC Human Rights Tribunal](#). The Tribunal has the authority to order that the school stop discrimination and develop policies to accommodate you. Unfortunately, this typically requires hiring a lawyer and going through a legal process.

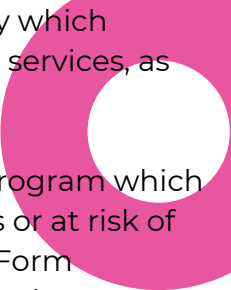
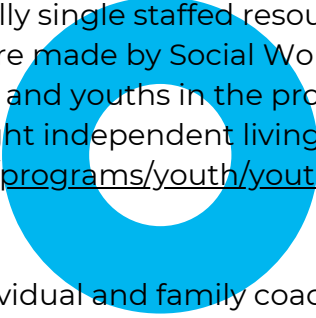
You can get free advice regarding Human Rights in BC and legal services through the [BC Human Rights Clinic](#), and free information on Human Rights in BC through the [BC Human Rights Commission](#).



## WHAT ARE MY OPTIONS IF HOME IS NOT A SAFE ENVIRONMENT FOR ME?

There are a number of resources available for youth who are facing violence at home or need urgent help. We have compiled a list below:

If you fear for your life or safety, you should contact your local police or call 9-1-1.

- **Interior Community Services (ICS)** is a non-profit multi-service agency which provides support to youth. It offers numerous educational and support services, as well as safe spaces and emergency and alternative housing services.
  - **Acadia Youth Transitional Housing** is a Youth Stabilization Housing program which prioritizes young people between the ages of 17 – 24 who are homeless or at risk of homelessness. Youth can be referred using the Acadia Referral Intake Form [https://www.interiorcommunityservices.bc.ca/download\\_file/502/229](https://www.interiorcommunityservices.bc.ca/download_file/502/229), and must complete a Vulnerability Assessment application.
  - **Kamloops Youth Shelter** provides short term temporary housing, as well as support and advocacy for youth 13 – 18 years of age experiencing homelessness, at risk of homelessness, or a family conflict or crisis. Youth can call or come to the shelter to inquire about availability.  
<https://www.interiorcommunityservices.bc.ca/programs/youth/kamloops-youth-shelter>
  - **Youth Living Programs** are therapeutic model homes for youth up to age 19 who cannot remain in their home. They are generally single staffed resources with additional support staff as needed. Referrals are made by Social Workers within the Ministry of Children and Family Development, and youths in the program are provided a safe environment while being taught independent living skills.  
<https://www.interiorcommunityservices.bc.ca/programs/youth/youth-living-programs>
  - **The Youth Reconnect Program** provides individual and family coaching, assessment and advocacy to youth who are homeless or at-risk of homelessness due to breakdown with family and natural supports. It supports youth aged 16-19 who are homeless or at increased risk of homelessness, and helps them connect to family and/or community based resources or other natural supports. Youth are referred via self-referral, community based, familial, Ministry of Children and Family Development / Probations, or the RCMP.  
<https://www.interiorcommunityservices.bc.ca/programs/youth/reconnect>
  - **Elizabeth Fry Society** is an organization with branches throughout Canada that provides housing, mental health support, educational programs, and even more resources to women and children. You can check whether there is a branch near you on their website. Local branches will have specialized resources for your area.  
<https://www.caefs.ca/our-locals>
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## WHAT ARE MY RIGHTS IF A TEACHER MISGENDERS ME OR USES MY DEAD NAME?

You have the right to be referred to by your name and pronouns at school; using your deadname or misgendering you violates your rights and violates several policies that your school must abide by.

The BC Human Rights Code protects all BC residents against discrimination based on gender identity. Schools also have a duty under the School Act to establish codes of conduct that prohibit discrimination based on gender identity. BC teachers also have a duty to “treat students equitably with acceptance, dignity and respect” under their Professional Standards.

This means that, if your teacher is discriminating against you by misgendering you or using your dead name, it is a human rights violation, a violation of the School Act, and a violation of that teacher’s Professional Standards.

You have the option to make a provincial human rights complaint or make a complaint to your school, school superintendent, or report your teacher to the Commissioner for Teacher Regulation. To pursue a provincial human rights complaint under the BC Human Rights Act, refer to the British Columbia Human Rights Tribunal’s [website](#).

Provincial human rights cases usually require hiring a lawyer, which can be very expensive. Cases can also be long, complicated, and may not lead to an effective solution for you. For these reasons, it may be easier to begin with a non-legal alternative.

You may want to begin by talking to the teacher directly. Although this can be intimidating, it is often the easiest first step you can take. If you prefer to have another person present, you can ask to talk to your school district’s SOGI representative or Safe Schools Coordinator. Both should be aware of LGBTQ+ issues, and both should be able to act as an intermediary and help you set expectations with your teacher.

If you are unable to get a solution by talking to the teacher, you can escalate to your school principal. If the school still fails to follow their policy, or refuses to accommodate you, the next step in most school districts is to talk to your school district’s Superintendent. You can find your Superintendent by district [here](#).

We have created some letter templates for these conversations at the end of the document, that you are free to use.

If your teacher is unwilling to accommodate you as a trans student, you can also report them to the Commissioner for Teacher Regulation. The Commissioner handles breaches of the professional standards, and anyone can make a report. You can file a complaint on their website [here](#).

*\* Note: The BC Human Rights Tribunal recently held that a co-worker referring to a non-binary worker in BC by their deadname, incorrect pronouns, and gendered nicknames amounted to discrimination. They also held that an employer cannot terminate an employee for requesting to be referred to by their pronouns/name.*

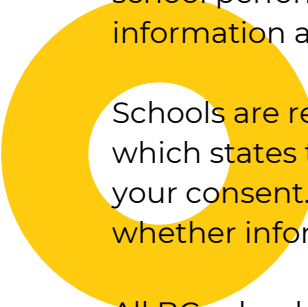


## IF I “COME OUT” TO MY TEACHER, ARE THEY GOING TO TELL MY PARENTS?

Unfortunately, there is currently no clear answer to this question.

There are no laws prohibiting a teacher from disclosing a student’s gender identity, sexuality, or any other personal information to that student’s parents. There is also no clear law compelling them to share information with your parents. This means that it is largely up to an individual teacher whether they will choose to tell your parents about your identity.

The BC School Act gives parents the right to be told about their child’s behaviour and school performance by school employees. This does not explicitly include or exclude information about gender identity or sexuality.




Schools are required to abide by PIPA (the BC Privacy and Information Protection Act), which states that the school cannot share your student information with anyone without your consent. However, the Act usually only applies to student records; it is not yet clear whether information about your gender identity is included under this Act.

All BC schools are also required to follow a SOGI (sexual orientation and gender identity) curriculum and have a SOGI representative available to students. The SOGI guidelines recommend that teachers only share information about a student’s identity if the student gives permission first. They also recommend that teachers consider whether students’ home environments are a safe place for them and ask the students who they would like to know/not know about their identity.


Unfortunately, the recommendations under the SOGI curriculum are not legally enforceable.

If you are considering telling a teacher about your gender identity, it may be useful to bring up the SOGI guidelines or speak to your school’s SOGI representative. Asking what your school’s policies are regarding sharing student information with parents may help you make an informed decision before you share your identity.

If your teacher isn’t sure what to do after you share your gender identity with them, you can show them this [guide](#) as a resource and ask to create a support plan.



But if a teacher chooses to tell your parents, unfortunately you do not have legal recourse against the school or teacher (yet) in BC.







## WHAT ARE MY RIGHTS IF ANOTHER STUDENT IS BULLYING ME? WHAT IF THEY ARE TARGETING ME BECAUSE OF MY 2LGBTQIA+ IDENTITY?

You have a right to a safe school environment free from bullying, harassment, and discrimination under the School Act and the Safe and Caring School Communities policy, which all public schools in BC must abide by. You also have the right, under the BC Human Rights Code, to not be discriminated against because of your gender identity or sexuality. This includes bullying and harassment.

This means that your school has a legal duty to make sure you can go to school without being bullied or discriminated against. These rules apply to bullying at school AND bullying online, and apply if the bully is a kid OR if the bully is an adult.

Each school has their own policies that teachers must follow, but the policies must meet the minimum requirements set by the province.

At minimum, teachers and schools must (among other things):

- Work to prevent bullying
- Work to make the school inclusive and respectful of ALL students, regardless of identity or background
- Work to protect the safety of all students, regardless of identity or background

Each school district has a “Safe School Coordinator,” who is responsible for making sure the school follows these rules. If you or someone you know are being bullied, you may want to ask who the Safe School Coordinator is at your school and talk to them. If you are being bullied because of your gender identity or sexuality, you can also ask to talk to your school district’s SOGI representative.

If you are uncomfortable telling anyone in-person, or the person you told is not doing enough to stop the bullying, you (and any student) can make an anonymous report through [Erase It BC here](#).

Making an anonymous report lets the school district know that there is a problem, and they are obligated by law to follow up on these reports. The school district will not know who made the report. You can also see [the Erase It BC site](#) here for more help and resources.

If you or someone you know is feeling scared, alone, needs help, or just needs to talk to someone, the Kids Help Line is always open for calls or texts. [The Kids Help Line](#) workers are educated on LGBTQ+ issues and bullying, and take a non-judgemental approach to helping you find whatever help you need. You can reach them at: 1 800 668-6868 or at: <https://kidshelpphone.ca/>

Bullying can also be a crime, and can be reported to the police. If someone is making threats to harm or kill you, including threatening to harm or kill you because you are transgender or 2SLGBTQPIA+, they are committing a criminal offense. You can make a police report to your local police by calling 9-1-1 or your local non-emergency line. You should always call the police if you are afraid for your life or your safety.



## HOW DO I GET MY SCHOOL TO RECOGNIZE MY GENDER IDENTITY AND NAME IF THEY ARE DIFFERENT FROM MY BIRTH RECORDS?

You have a right to be accommodated as a trans student under the BC Human Rights Code. This means that your school must recognize and respect your identity, including recognizing and respecting your pronouns and name.

This means that, even if your name and gender are different from what's written on your birth record, your school must respect your identity.

If you need help telling your school about your identity, you can use the below letter template as a starting point.

If you aren't sure who to talk to about your gender identity, you can ask to speak to your school district's SOGI representative. They should be able to work with you to create a support plan and communicate that plan to the school.

# Letter Templates

## LETTER A: SHARING IDENTITY WITH SCHOOL

[teacher/school staff name],

I am writing to you to share something very important. I identify as [transgender, non-binary, 2-spirit, other...]. My name is [x] and my pronouns are [x].

To help me feel safe and respected while at school, I am asking you and other school staff to:

Use my correct name:

Always

Only with certain people/groups: \_\_\_\_\_

Except with certain people/groups: \_\_\_\_\_

Use my correct pronouns :

Always

Only with certain people/groups: \_\_\_\_\_

Except with certain people/groups: \_\_\_\_\_

Respect my use of the bathroom of my choice, which is: \_\_\_\_\_

Respect my choice of clothing and gender presentation

Help me feel safe at school by making the classroom inclusive and respectful of all gender identities and expression

Help protect me from discrimination and bullying from certain students/staff

Create a support plan with me, with even more details (for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))

My identity as a [trans, non-binary, 2-spirit, etc...] student is protected under the BC Human Rights Code and Canadian Human Rights Act. I have the right to be referred to by my pronouns/name of choice, use the bathroom of my choice, and to wear the clothing of my choice. I also have the right to be able to attend school without facing discrimination.

If you aren't sure how you can best support LGBTQ+ students as a teacher, SOGI has a guide that you might find helpful: <https://www.sogieducation.org/all-educators-posts/category/Student+Transitions>

Right now, my family:

Know, and I am comfortable with you talking to them about this

Know, but I would rather you not talk to them about this

Do not know, and I do not want them to know

Do not know, but I would like to tell them

Other: \_\_\_\_\_

If you are able, I would also like help with:

Feeling unsafe at home

Telling my parents/siblings/friends

Feeling unsafe in certain situations: \_\_\_\_\_

Connecting with school staff who can support me (e.g., SOGI rep)

Thank you,

[my name]

## LETTER B: TEACHER IS MISGENDERING ME

[Name of teacher/school representative],

Right now I do not feel my gender identity is being respected in our classroom. I have communicated to you that my pronouns/name are \_\_\_\_\_, but you have recently referred to me as \_\_\_\_\_.

The BC Human Rights Code and Canadian Human Rights Act protect my gender identity and give me the right to be referred to by my pronouns/name of choice.

I understand that learning to use the correct name/pronouns for me can take time. But you have a duty to not violate my rights, and to create a classroom environment that is respectful and inclusive.

In order to help me feel respected and included in the classroom, I am asking you to respect the accommodations that I am entitled to as a trans student. Specifically, I need: [check all that apply]

To be referred to by my pronouns, which are: \_\_\_\_\_

To be referred to by my name, which is: \_\_\_\_\_

To use the bathroom of my choice, which is: \_\_\_\_\_

I currently do not feel safe using this bathroom because: \_\_\_\_\_

You can help me feel safe using this bathroom by: \_\_\_\_\_

To wear the clothing of my choice, which is: \_\_\_\_\_

I currently do not feel safe wearing this clothing because: \_\_\_\_\_

You can help me feel safe wearing this clothing by: \_\_\_\_\_

To create a support plan with you to outline more details

(for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))

As a teacher in BC, you have resources (see: SOGI's website) to help you learn more about the rights of your LGBTQ+ students. I encourage you to use those resources, and hope you will continue working to create a more inclusive and respectful learning environment for students like me.

I would like us to have another meeting in \_\_\_\_\_ weeks, to check in and discuss whether my needs are being met.

Thank you,

[My name]

## LETTER C: TEACHER HAS NOT LISTENED

[name of principal/superintendent],

I am a student in your school, and right now I do not feel that my identity as a trans student is being respected. I have communicated to [teacher/employee] that I am a trans student and need to be accommodated, but they have not respected my rights.

Specifically, on [date] I had a meeting with [teacher/employee] where I told them that I needed: [check all that apply]

To be referred to by my pronouns, which are: \_\_\_\_\_

To be referred to by my name, which is: \_\_\_\_\_

To use the bathroom of my choice, which is: \_\_\_\_\_

I currently do not feel safe using this bathroom because: \_\_\_\_\_

You can help me feel safe using this bathroom by: \_\_\_\_\_

To wear the clothing of my choice, which is: \_\_\_\_\_

I currently do not feel safe wearing this clothing because: \_\_\_\_\_

You can help me feel safe wearing this clothing by: \_\_\_\_\_

To create a support plan with you to outline more details

(for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))

But since that meeting, [teacher/employee] has [check all that apply]:

Misgendered me

Misnamed me

Refused me bathroom access

Refused to let me wear the clothing of my choice

Discriminated against me in some other way: \_\_\_\_\_

My gender identity is protected under the BC Human Rights Code and Canadian Human Rights Act. I have the right to be referred to by my pronouns/name of choice, use the bathroom of my choice, and to wear the clothing of my choice. When [teacher] does these things, it violates my human rights and makes me feel unsafe at school.

As the [principal/superintendent] of [school name], you have a duty to ensure students' rights are respected, and to foster a school environment of inclusivity and respect. I should be able to feel safe in my classroom as a trans student.

I am asking you to intervene with [teacher/employee] on my behalf.

I would like to speak with you again in \_\_\_\_\_ weeks to discuss any changes that have happened, and any more changes that still need to happen.

Thank you,

[my name]

## LETTER D: USING BATHROOM/LOCKER ROOM OF CHOICE

[Name of teacher/school representative],

Right now I do not feel that I can safely use the bathroom/locker room at school. I identify as \_\_\_\_\_ and the bathrooms/locker rooms I am comfortable using are \_\_\_\_\_. But right now I do not feel that I am able to use those bathrooms/locker rooms because:

- Students are stopping me from using them
- Teachers/staff are stopping me from using them
- I am being bullied for using them
- I do not feel welcome/safe in those spaces
- I am experiencing violence in those spaces
- I am experiencing harassment in those spaces
- I am experiencing anxiety in those spaces
- Those spaces do not exist in our school (e.g., gender-neutral bathrooms)
- Other: \_\_\_\_\_

The BC Human Rights Code and Canadian Human Rights Act protect my gender identity and give me the right to use the bathroom/locker room of my choice.

I understand that some schools may have not dealt with issues around bathrooms and gender identity before, so this may be new for you. But you have a duty to not violate my rights, and to create a school environment that is safe and inclusive.

In order to help me feel safe and welcome at school, I am asking you to respect the accommodations that I am entitled to as a trans student. Specifically, I need: [check all that apply]

- You to expressly support my right to use the bathroom of my choice
- Someone to talk to [teacher/staff/student names], so they stop preventing me from using the bathroom/locker room of my choice
- A solution to the bullying I am experiencing
- A bathroom buddy, or a friend/classmate to come with me when I need to use the bathroom during class time
- More teacher supervision near the bathrooms/locker rooms, to help me feel safer
- Less teacher supervision near the bathrooms/locker rooms, to help me feel safer
- Help finding a bathroom/locker room where I can feel safe
- Help talking to police or my parents or another trusted figure about the violence/bullying/harassment I have been experiencing
- To create a support plan with you to outline more details  
(for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))
- Other: \_\_\_\_\_

As a teacher in BC, you have resources (see: SOGI's website) to help you learn more about the rights of your LGBTQ+ students. I encourage you to use those resources, and hope you will continue working to create a more inclusive and safe learning environment for students like me.

I would like us to have another meeting in \_\_\_\_\_ weeks, to check in and discuss whether my needs are being met.

Thank you,

[My name]

## LETTER E: SPORTS TEAM OF CHOICE

[Name of teacher/school representative],

Right now I do not feel that I am welcome on [sports team]. This is because:

- Students have made me feel unsafe
  - Through bullying
  - Through insults/harassment/other language
  - Through violence/threats
  - Through something else: \_\_\_\_\_
- Teachers/staff/coaches/parents have made me feel unsafe
  - Through bullying
  - Through insults/harassment/other language
  - Through violence/threats
  - Through something else: \_\_\_\_\_
- I have been told I am not allowed to play on this team by [name]
- I do not feel welcome on [team]
  - I am worried other players will not welcome me
  - I am worried rules prohibit me from joining
  - Other: \_\_\_\_\_
- Other: \_\_\_\_\_

The BC Human Rights Code and Canadian Human Rights Act protect my gender identity and give me the right to not face discrimination. And the policies of BC School Sports explicitly prohibit discrimination based on gender identity, and allow me to play on the sports team that corresponds to my gender identity.

I understand that some schools may have not dealt with issues around sports and gender identity before, so this may be new for you. But you have a duty to not violate my rights, and to create a school environment that is safe and inclusive.

It is also important for you to understand that sports organizations at the highest level, including the International Olympic Committee, U Sports Canada, and Canadian Center for Ethics in Sport have established policies allowing trans-athletes to compete, regardless of whether they have medically transitioned or undergone hormone therapy.

In order to help me feel safe and welcome at school, I am asking you to respect the accommodations that I am entitled to as a trans student. Specifically, I need: [check all that apply]:

- You to expressly support my right to play on [sports team]
- Someone to talk to [teacher/staff/coach/student names], so they stop telling me I am not allowed to play on [sports team]
- A solution to the bullying/harassment I am experiencing
- Help applying to BC School Sports for explicit permission to play on the teams of my choice
- You to write a letter as part of this application
- Help introducing myself to the coach of [sports team] and signing up
- Other: \_\_\_\_\_

Trans athletes face disproportionate amounts of discrimination, a lack of understanding, and fear. Because of this, many trans youth drop out of school sports and miss out on opportunities to grow friendships, challenge themselves physically, and experience team sports. I want to be able to safely play on [school team], and I need support to do that.

As a teacher in BC, you have resources (see: SOGI's website) to help you learn more about the rights of your LGBTQ+ students. I encourage you to use those resources, and hope you will continue working to create a more inclusive and safe learning environment for students like me.

I would like us to have another meeting in \_\_\_\_\_ weeks, to check in and discuss whether my needs are being met.

Thank you,

[My name]



## LETTER F: WEARING CLOTHING OF CHOICE

[Name of teacher/school representative],

Right now I do not feel that I can safely wear clothing that corresponds to my gender identity. I identify as \_\_\_\_\_, but right now I do not feel that I am able to express myself as \_\_\_\_\_ because:

Students are making me feel unsafe

Through bullying

Through threats/violence

Through insults/harassment

Other: \_\_\_\_\_

Teachers/staff making me feel unsafe

Through telling me I am not allowed to wear these clothes

Through bullying

Through threats/violence

Through insults/harassment

Other: \_\_\_\_\_

I am being bullied for how I express my gender

Something in the school's policies makes me feel like I cannot express my gender

I am afraid of how my peers might react if I change how I express my gender through my appearance

Other: \_\_\_\_\_

The BC Human Rights Code and Canadian Human Rights Act protect my gender identity and give me the right to express my gender without facing discrimination.

I understand that some schools may have not dealt with issues around gender expression before, so this may be new for you. But you have a duty to not violate my rights, and to create a school environment that is safe and inclusive.

In order to help me feel safe and welcome at school, I am asking you to respect the accommodations that I am entitled to as a trans student. Specifically, I need: [check all that apply]

You to talk to [teacher/staff/student etc...], to tell them to stop preventing me from expressing my gender identity

Address an issue with our school's policies that make me feel unable to express my gender

Help addressing the bullying/harassment/violence I am facing

Help finding support, such as our school district's SOGI representative

To create a support plan with you to outline more details

(for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))

Other: \_\_\_\_\_

As a teacher in BC, you have resources (see: SOGI's website) to help you learn more about the rights of your LGBTQ+ students. I encourage you to use those resources, and hope you will continue working to create a more inclusive and safe learning environment for students like me.

I would like us to have another meeting in \_\_\_\_\_ weeks, to check in and discuss whether my needs are being met.

Thank you,

[My name]

## LETTER G: UNSAFE AT SCHOOL

[Name of teacher/school representative],

Right now I do not feel safe at school. This is because:

- Students are making me feel unsafe
  - Through bullying
  - Through threats/violence
  - Through insults/harassment
  - By deadnaming me or refusing to respect my pronouns
  - Other: \_\_\_\_\_
- Teachers/staff making me feel unsafe
  - Through bullying
  - Through threats/violence
  - Through insults/harassment
  - By deadnaming me or refusing to respect my pronouns
  - Other: \_\_\_\_\_
- I am being bullied/harassed/facing violence for:
  - How I express my gender
  - How I appear
  - My sexuality
  - My gender identity
  - My culture/heritage
  - Other: \_\_\_\_\_
- Other: \_\_\_\_\_

The BC Human Rights Code and Canadian Human Rights Act give me the right to not face discrimination based on my gender, gender identity, sexuality, or culture.

LGBTQ+ youth face a disproportionate rate of bullying and violence. I want to be able to come to school without fear, but right now that is not happening. The school has a responsibility to protect me, and protect my right to not be discriminated against.

In order to help me feel safe and welcome at school, I need: [check all that apply]

- Our school to address the bullying/harassment/violence I am facing
- Help contacting the police to make a report
- Help finding queer-inclusive support, such as our school district's SOGI representative
- Increased teacher supervision in certain areas, such as: \_\_\_\_\_
- Support from school staff to keep me away from [names of certain students/staff] who are making me feel unsafe
- To create a support plan with you to outline more details  
(for a support plan template, please see: [https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4\\_Student\\_Gender\\_Support\\_Plan.pdf](https://gender-spectrum.cdn.prismic.io/gender-spectrum/4fb9c10a-dfe5-4c96-8cce-a045ac9fa8a4_Student_Gender_Support_Plan.pdf))
- Other: \_\_\_\_\_

As a teacher in BC, you have resources (see: SOGI's website) to help you learn more about the rights of your LGBTQ+ students. I encourage you to use those resources and hope you will continue working to create a more inclusive and safe learning environment for students like me.

I would like us to have another meeting in \_\_\_\_\_ weeks, to check in and discuss whether my needs are being met.

Thank you,

[My name]



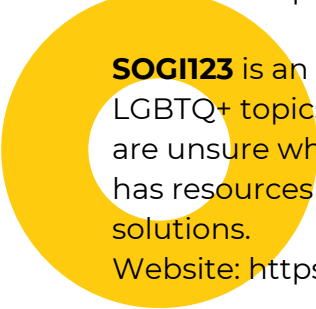
## OTHER RESOURCES:

**Trans Rights BC** is an organization in BC focused on helping trans people protect their rights. They have resources on their site to help you navigate the school system, have a “self advocacy guide” that can help you plan your steps, and have guides for making human rights complaints.

Website: <https://www.transrightsbc.ca/know-your-rights/education/>

**QMunity** is an organization that works to support all queer folk living in BC. They have a youth support program that meets weekly online and in-person. They offer peer support and community resources available to all queer youth in BC.

Website: <https://qmunity.ca/>



**SOGI123** is an educational movement focused on increasing inclusivity and awareness of LGBTQ+ topics in schools. Every school in BC should have a SOGI representative - if you are unsure who your SOGI representative is, you can contact SOGI to find out. SOGI also has resources for educators and schools that may help you make a care plan and get solutions.

Website: <https://bc.sogieducation.org/>

**Safe Spaces - Interior Community Services Kamloops** is safe place for LGBTQIAP2S+ (lesbian, gay, bisexual, transgender, queer, intersex, asexual, pansexual and Two Spirit) youth ages 12-26 & their allies to meet and receive education and supports.

Website: <https://www.interiorcommunityservices.bc.ca/programs/youth/safe-spaces>

Staff Cell: 250-371-3086

Email: [sspaces@interiorcommunityservices.bc.ca](mailto:sspaces@interiorcommunityservices.bc.ca)



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22. **Professional Standards for BC Educators:** [https://www2.gov.bc.ca/assets/gov/education/kindergarten-to-grade-12/teach/teacher-regulation/standards-for-educators/edu\\_standards.pdf](https://www2.gov.bc.ca/assets/gov/education/kindergarten-to-grade-12/teach/teacher-regulation/standards-for-educators/edu_standards.pdf)
23. **Privacy and Information Protection Act, SBC 2003**, c 63, s 18: [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00\\_03063\\_01#section18](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_03063_01#section18)
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25. **“Student Support Plan” online:** <https://www.sogieducation.org/all-educators-posts/student-support-plan>
26. **Canadian Human Rights Act**, RSC 1985, c H-6, s 3(1) <https://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html#h-256800>
27. **“Anonymous Reporting Tool for Students” online:** <https://erasereportit.gov.bc.ca/>
28. **“erase” online:** <https://www2.gov.bc.ca/gov/content/erase>
29. **“Change of Gender Designation on Birth Certificates” online:** <https://www2.gov.bc.ca/gov/content/life-events/birth-adoption/births/birth-certificates/change-of-gender-designation-on-birth-certificates>
30. **Legal Change of Name Application” online:** <https://www2.gov.bc.ca/gov/content/life-events/legal-changes-of-name/legal-change-of-name-application>
31. **“Legal Change of Name In B.C.” online:** <https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa004.pdf>

# Immigration & Refugees

## **CAN I MOVE TO CANADA AS AN IMMIGRANT OR REFUGEE AND A MEMBER OF THE 2SLGBTQIA+ COMMUNITY?**

You cannot be denied the chance to come to Canada as an immigrant or refugee based on your sexuality or gender identity. Canada is recognized internationally as one of the safest places for 2SLGBTQIA+ individuals. However, this does not mean that immigrants and refugees do not face unique challenges once settled in Canada.

Many 2SLGBTQIA+ Canadian immigrants and refugees have struggled with the tension between their cultural identity and their sexual orientation or gender identity. As one immigrant put it: “In addition to settlement challenges, you’re trying to negotiate your identity, and figure out where it’s safe to be out, and where not.” Similarly a refugee discussed: “Then you face a lot of challenges when you arrive; as you go through the culture shock, finding a job and finding meaning in your life now... Yes, you remain true to your identity, but your identity doesn’t click with the community yet.” Or another refugee: “I also found myself in a strange paradox. I wasn’t accepted for who I really was in Canada either. I am not white. I am not black.”

For more information on 2SLGBTQIA+ immigrant and refugee community and other non-governmental resources, see <https://ok2bme.ca/resources/outside-of-canada/canadas-laws/>

## **IF I AM IMMIGRATING TO CANADA AS A MEMBER OF THE 2SLGBTQIA+ COMMUNITY, CAN MY FAMILY OR SPOUSE COME WITH ME?**

Potentially. You can bring some family members with you to Canada as your dependents, including your spouse or common law partner, your dependent child, your spouse or common law partner’s dependent child, and a dependent child of a dependent child. If you live with your partner for a minimum of one year you will be recognized as common law partners in Canada for immigration purposes.

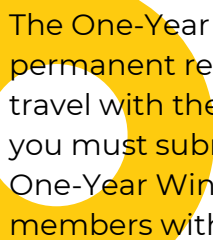
Family members that you cannot bring with you to Canada include your parents, grandparents, siblings, aunts, uncles, nephews, nieces, or other relatives. However, you may be able to sponsor these relatives after you immigrate to Canada and become a permanent resident.



## **IF I AM COMING TO CANADA AS A REFUGEE AND A MEMBER OF THE 2SLGBTQIA+ COMMUNITY, CAN MY FAMILY OR SPOUSE COME WITH ME?**

Potentially.

If you were separated from your family during travel, you may apply for them to join you in Canada. Again, “family” has a limited definition, and includes only your spouse or common law partner, your dependent child, your spouse or common law partner’s dependent child, and a dependent child of a dependent child. Whether they are allowed to join you will depend on your legal status and the nature of your relationship.

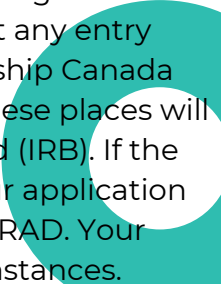


The One-Year Window of Opportunity Provision allows for refugees that have obtained permanent resident status to bring family members to Canada who were unable to travel with them originally. For this, you and your family members must be eligible and you must submit to the Resettlement Operations Center in Ottawa both a complete One-Year Window request and application for permanent residence of your family members within one year of your arrival to Canada.

## **IF I FEEL I AM BEING DISCRIMINATED AGAINST DUE TO MY SEXUALITY OR GENDER IDENTITY IN THE IMMIGRATION OR REFUGEE PROCESS, WHAT CAN I DO ABOUT IT?**


The Canadian Charter of Rights and Freedoms applies to all people in Canada. This means that if you are applying to be a refugee or immigrant to Canada while already being in Canada, the Charter protects your rights to equality. This includes not being discriminated against based on your gender identity and/or sexual orientation. If you are denied refugee status and you believe it is due to discrimination, bias, or unfairness (or any other reason), you have multiple options to appeal the decision.

The first option is the Refugee Appeal Division (RAD), which looks at appeals that come from the Refugee Protection Division (RPD). The RPD decides claims for refugee protection made in Canada. A claim for refugee protection can be made at any entry port when arriving in Canada or to the Immigration, Refugees and Citizenship Canada (IRCC) or the Canada Border Services Agency (CBSA). Officers at one of these places will decide if a claim should be referred to the Immigration and Refugee Board (IRB). If the officers decide the claim is eligible, it will first be referred to the RPD. If your application for refugee protection is rejected at this stage, then you can appeal to the RAD. Your appeal will likely be paper based, as oral hearings only occur in rare circumstances.



The second option is the Federal Court of Canada, which looks at appeals that come from the IRB. If the RPD finds your application for refugee protection to be eligible, they will refer your case to the IRB. If the IRB then rejects your application, you can appeal to the Federal Court. You have 15 days after your claim is rejected to file your appeal with the Federal Court. At this point, it is recommended that you get legal advice.






## IF I AM AT RISK OF BEING PERSECUTED FOR MY SEXUALITY OR GENDER IDENTITY IN MY HOME COUNTRY, CAN MY IMMIGRATION TO CANADA BE EXPEDITED?

Potentially.

If you have had to leave your home country because of a well-founded fear of persecution due to your sexuality or gender identity, then you may be eligible for convention refugee status. For more information on applying for refugee protection, see <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada.html>.




## IF I AM BEING DISCRIMINATED AGAINST DUE TO MY SEXUALITY OR GENDER IDENTITY IN MY HOME COUNTRY, CAN I APPLY FOR REFUGEE STATUS IN CANADA?

To be granted refugee status in Canada, you need to show that you have been persecuted or face a risk to life, risk of torture, or risk of cruel and unusual treatment or punishment.

The IRB has adopted guidelines related to sexual orientation, gender identity and expression (SOGIE) and related factors. These guidelines recognize that you can face persecution based on real or perceived SOGIE factors. Being compelled to hide your sexual orientation or gender identity is a serious interference with your fundamental human rights that can amount to persecution.


The guidelines direct the IRB to consider intersectionality factors when determining whether persecution exists, and acknowledge that laws that criminalize or suppress sexual orientation or gender identity can give rise to persecution, even if those laws are not actively enforced. Further, the guidelines note that transgender and intersex persons may be particularly vulnerable to systemic discrimination and risks of violence.



The guidelines also acknowledge that instances of harassment or discrimination may cumulatively amount to persecution. For more information on how to prove you are being persecuted go to <https://irb.gc.ca/en/legal-policy/policies/Pages/GuideDir09.aspx>

## WHAT 2SLGBTQIA+ IDENTITIES DOES CANADA ACCEPT FOR REFUGEE STATUS?

2SLGBTQIA+ identities that could be accepted for refugee status include, but are not limited to: lesbian, gay, bisexual, trans, intersex, and queer individuals. However, any 2SLGBTQIA+ identity or expression that is cause for persecution in your country of origin can be the basis of a refugee protection claim. This includes having to hide or conceal your 2SLGBTQIA+ identity or expression.



## HOW DO I APPLY FOR REFUGEE STATUS IF I BELIEVE I AM BEING PERSECUTED FOR MY SEXUALITY OR GENDER IDENTITY IN MY HOME COUNTRY?

There are two main parts to Canada's refugee system: The Refugee and Humanitarian Resettlement Program and the In-Canada Asylum Program.

The Refugee and Humanitarian Resettlement Program is for individuals who need help outside of Canada. You cannot apply directly to Canada for resettlement. Rather, the United Nations Refugee Agency (UNHCR) along with partner organizations are in charge of identifying refugees for resettlement, such as through refugee camps.

The In-Canada Asylum Program is for individuals who have already made their way to Canada and are making their claim while here. If you are applying for refugee status while in Canada, you will be applying to the Immigration and Refugee Board of Canada (IRB). A claim for refugee protection can be made at any entry port when arriving in Canada or to Immigration, Refugees and Citizenship Canada or the Canada Border Services Agency.

Officers at one of these entry ports will decide if a claim should be referred to the IRB. If the officers decide the claim is eligible, it will first be referred to the Refugee Protection Division (RPD). If your claim is considered eligible by the RPD, they will refer your case to the IRB, who will make the final decision on your case.


## DO SETTLEMENT SERVICES IN CANADA UNDERSTAND AND SUPPORT 2SLGBTQIA+ PEOPLE?

Although Canada is recognized internationally as one of the safest places for 2SLGBTQIA+ individuals, refugees and immigrants can still face many challenges once resettled in Canada. Settlement services in Canada can offer help with a variety of challenges faced by immigrants and refugees, such as with housing, employment, accessing social services, among others.

Settlement services also depend on where you are living within Canada. Larger centers, such as Vancouver, will have more organizations and resources available for 2SLGBTQIA+ refugees and immigrants.


## HOW DO I PROVE I AM BEING PERSECUTED OR AM AT RISK OF BEING PERSECUTED FOR MY SEXUALITY OR GENDER IDENTITY IN MY HOME COUNTRY FOR THE PURPOSE OF CLAIMING REFUGEE STATUS?

Refugee cases are determined on a case-by-case basis. In your refugee protection claim, you will have to prove that you fear persecution and that the persecution is because of your sexual orientation or gender identity or expression. You may have to prove that you are a member of the 2SLGBTQIA+ community.



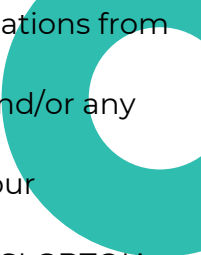
In 2017, the ministry developed Guideline 9: Proceedings Before the IRB Involving Sexual Orientation and Gender Identity and Expression, and Sex Characteristics (SOGIESC Guideline) for the Immigration and Refugee Board (IRB) personnel to help with their understanding of 2SLGBTQIA+ refugee claims. A review of the impact of the Guideline showed marked improvement of the IRB's approach to cases involving 2SLGBTQIA+ individuals.

What qualifies as persecution can vary. They can include, but are not limited to:


- 
- The existence of laws in your country of origin that criminalize or suppress non-conforming sexual orientations, sexual behaviours, or gender identities or expressions
  - Being forced to undergo medical treatment for your 2SLGBTQIA+ identity or expression such as "corrective" sexual violence, non-consensual medical and scientific experimentation, forced "corrective" surgery, forced traditional cleansing rituals or religious exorcisms, forced institutionalization, forced psychotherapy, forced electroshock therapy, and forced drug injection or hormonal therapy
  - Facing discrimination and harassment that, cumulatively, constitutes persecution. This could include but is not limited to: restrictions on access to employment, education, health care, housing, and/or social services, being the target of repeated acts of intimidation, systemic harassment from police or government agents, and/or military hazing
  - Other reasons that cause you to be compelled to conceal your 2SLGBTQIA+ identity or expression.

The absence of laws allowing same-sex marriage or same-sex spousal economic benefits does not, on its own, constitute persecution for the purpose of a refugee protection claim.

Evidence you can use includes, but is not limited to, evidence from family or friends, medical evidence, or participation in 2SLGBTQIA+ culture. Documents will be useful in providing evidence for your claim. These documents can include:

- 
- Letters or documents from 2SLGBTQIA+ or other human rights organizations from your country of origin
  - Letters from friends and family confirming your 2SLGBTQIA+ identity and/or any persecution you may have experienced
  - Letters from your past romantic or sexual partners that may confirm your 2SLGBTQIA+ identity
  - Police or government records that show persecution because of your 2SLGBTQIA+ identity or expression
  - Medical records that show any injuries that resulted from anti-2SLGBTQIA+ violence

The Canadian government recognizes that your expression, experiences, and behaviour related to your sexuality or gender identity may only exist in private and, therefore, your testimony may be the only evidence in some cases.



While the SOGIESC Guideline has improved the handling of 2SLGBTQIA+ cases, biases can still exist in the Refugee Protection Division's (RPD) process. This is especially true if you have multiple 2SLGBTQIA+ identities. In one case, an individual claiming refugee status based on their fear of persecution due to their bisexual identity confused the RPD by also being gender fluid. The RPD rejected their claim on the basis of a lack of credibility because some of their letters of support used different pronouns than in their original application. However, this case was successfully appealed on the basis that the RPD did not correctly apply the SOGIESC Guideline.

## ARE THERE NON-GOVERNMENTAL SUPPORTS AND RESOURCES FOR 2SLGBTQIA+ IMMIGRANTS AND REFUGEES IN CANADA?

Yes, there are a number of organizations within Canada that offer supports for 2SLGBTQIA+ **immigrants** and **refugees** in Canada. These organizations offer help with housing, employment, language classes, counselling, building community, and accessing social services, among others.

Some organizations in British Columbia include:

- <https://settlement.org/>
- <https://www.successbcsis.com/>
- <https://www.mosaicbc.org/services/settlement/>
- <https://issbc.org/about-us>
- <https://qmunity.ca/>
- <https://egale.ca/>
- <https://immigrantservices.ca/>

Legal advice is extremely valuable for both immigrating or claiming **refugee** status as a member of the 2SLGBTQIA+ community. Your story is unique and key part of your identity. You will want to go to someone who is safe, here is a list of practitioners with experience in this area:

## AS A REFUGEE, DO I HAVE ACCESS TO HEALTHCARE AND OTHER SOCIAL SERVICES?

Yes, as a **refugee**, you have access to health care and many social services. Health care for **refugees** is covered through the Interim Federal Health (IFH) program, until you are covered by a provincial health care plan. In order to access IFH funding, you will need to bring your IFH program certificate or your Refugee Protection Claimant Document, along with government-issued identification with you to your health care provider.

Other social services for **refugees** are covered under the Resettlement Assistance Program (RAP). The RAP covers the costs for basic needs, including temporary housing, help finding permanent housing, community orientation, and financial support.

## **IF I FEEL I AM BEING DISCRIMINATED AGAINST DUE TO MY SEXUALITY OR GENDER IDENTITY ONCE SETTLED IN CANADA, WHAT CAN I DO ABOUT IT?**

If you feel you are being discriminated against once settled in Canada, and you settle in the province of British Columbia, you can file a complaint with the BC Human Rights Tribunal.

The BC Human Rights Code prohibits any discrimination on the basis of race, place of origin, religion, sex, sexual orientation, gender identity or expression, disability, or age in certain areas of activity, such as the workplace, school, doctor's office, among others. The BC Human Rights Code is a law in B.C. with the purpose of fostering a society where there are no barriers to full and free participation in the economic, social, political, and cultural life in B.C. The BC Human Rights Code also creates the tribunal and process for making and resolving complaints of discrimination.

\* Note: official complaints must usually be made within one year of the violation.

## **CAN I SPONSER MY SAME-SEX OR GENDER NON-CONFORMING SPOUSE FOR IMMIGRATION TO CANADA?**

Yes, as of 2002 Canadian citizens and permanent residents can sponsor a same-sex partner to immigrate to Canada, using the same rules that apply to opposite-sex partners. For more information on bringing your family or spouse with you, go to <https://ok2bme.ca/resources/outside-of-canada/canadas-laws/>.

# Immigration and Refugees

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14. **Canada, Immigration and Refugee Board, Guideline 9:** Proceedings Before the IRB Involving Sexual Orientation, Gender Identity and Expression, and Sex Characteristics, December 17 2021.
15. **Government of Canada:** <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/canada-role.html>
16. **Immigration and Refugee Board** <<https://irb.gc.ca/en/news/2020/Pages/review-implementation-sogie-guideline.aspx>
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18. **Settlement.org:** <https://settlement.org/ontario/immigration-citizenship/refugees/after-you-arrive/what-assistance-can-refugees-get-in-canada/>
19. **Settlement.org:** <https://settlement.org/ontario/health/refugee-health/refugee-health-services/what-is-the-interim-federal-health-program-ifhp/>
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21. **Human Rights Code, RSBC 1996**, c 210 s 8.
22. **Kamloops Immigrant Services:** <https://immigrantservices.ca/>

# Appendix A: Definitions

**Additional Grounds:** The basis or foundation; reasons sufficient in law to justify relief. Grounds are more than simply reasons for wanting a court to order relief. They are the reasons specified by the law that will serve as a basis for demanding relief.

**Arbitrary:** based on individual discretion, rather than a set of standards or rules.

**Arrest:** the restraining of a person whether or not by physical force by someone acting under authority (as a police officer) in connection with a crime.

**BC Human Rights Code:** A law in B.C. with the purposes to:

- Foster a society in B.C. where there are no barriers to full and free participation in the economic, social, political and cultural life of B.C.;
- Promote a climate of understanding and mutual respect where all are equal in dignity and share equal rights;
- Prevent discrimination;
- Identify and eliminate common patterns of inequality associated with discrimination; provide a means of correction and reform for those persons who are discriminated against contrary to the Code.

**"Board" or "Board of education":** a board of school trustees constituted under the BC School Act or a former Act.

**Buggery:** another word for sodomy, which is anal sex with a member of the same or opposite sex.

**Bylaw:** is a law that is set by local government.

**Canadian Charter of Rights and Freedoms (the Charter):** is part of Canada's constitution. It protects every Canadian's right to be treated equally under the law. The Charter guarantees broad equality rights and fundamental freedoms. It only applies to governments and does not apply to individuals, businesses, or other private organizations.

**Cisgender:** Refers to a person whose gender identity corresponds to the sex they were assigned at birth (sometimes referred to as "cis").

**College of Physicians and Surgeons of British Columbia:** The regulatory body of all physicians in British Columbia.

**Consent:** to give assent or approval.

**Conviction:** the process of finding a person guilty of a crime.

**Correctional Services Canada (CSC):** the organization that is responsible for managing prisons and other correctional institutions in Canada as well as supervising individuals who have conditionally been released.

**Criminal Code:** legislation that outlines most criminal offences in Canada.

**Deadname:** the name a transgender or non-binary person was given at birth and no longer uses upon transitioning.

**Detained:** some form of physical or psychological restraint by the state and a suspension of the individual's liberty interest by a significant physical or psychological restraint.



**Discrimination:** Treating someone differently on the basis of a prohibited ground of discrimination in a way that causes them disadvantage. The prohibited grounds are:

- race
- ancestry
- place of origin
- religion
- marital status
- family status
- physical disability
- mental disability
- sex
- sexual orientation
- gender identity or expression
- age
- political belief
- lawful source of income
- criminal conviction

**Expungement:** An order under the Expungement of Historically Unjust Convictions Act, relating to various previously existing offences that dealt with consensual same-sex sexual activity. A person who receives an expungement order in relation to an offence covered by that statute “is deemed never to have been convicted of that offence.”

**Family Law Act:** An act which explains concepts such as the resolution of family law disputes, parentage, care of and time with children, property division, pension division, child and spousal support, children’s property, protection from family violence, and court processes.

**Federal Prison:** includes a penitentiary, common jail, public or reformatory prison, lock-up, guard-room or other place in which persons who are charged with or convicted of offences are usually kept in custody.

**Gender:** The social construction of concepts such as masculinity and femininity in a specific culture in time. One may identify as being a man, woman, or another gender. It involves gender assignment (the gender designation of someone at birth), gender roles (the expectations imposed on someone based on their gender), gender attribution (how others perceive someone’s gender), and gender identity (how someone defines their own gender). Gender exists on a spectrum and is fundamentally different from the sex one is assigned at birth.

**Gender Expression:** A person’s gender expression refers to the characteristics in one’s personality, appearance, mannerisms and behaviour that express their gender identity. Gender expression can vary from social norms of feminine, masculine, or androgynous. Gender expression is independent from gender identity, for example a woman can express their gender in a masculine way yet still have a gender identity as female.

**Gender Identity:** A person’s internal perception of themselves as being male, female, neither (“agender”), a combination of genders, and/or non-binary.



**Gender-Inclusive Pronouns:** The inclusive pronouns they/them can be used instead of the gender binary pronouns (she/her, he/him) in order to avoid making assumptions about an individual's gender or sexuality. For example, "I have not met the new nurse. Have they started work? Would it be okay to contact them?" Note, some people use they/them as their own pronouns, finding that they/them more accurately reflects who they are, than binary pronouns do (she/her, he/him).

**Gross Indecency:** ... the meaning of "an act of gross indecency" [in s. 157 of the Criminal Code, R.S.C. 1970, c. C 34] has been elaborated by Brooke J.A. for this court in R. v. Quesnel (1979), 51 C.C.C. (2d) 270 at 280, as follows: ... although the Code does not define the offence of gross indecency it may be defined as a marked departure from decent conduct expected of the average Canadian in the circumstances that existed. What is needed is a fair objective standard in relation to which the conduct can be tested.

**"Guardian":** guardian within the meaning of the Family Law Act, or a personal guardian within the meaning of the Infants Act

**Harassment:** Includes threatening or harassing. Another word used for this type of crime is stalking. Criminal harassment is when someone makes you fear for your or a family member's safety by: Repeatedly following you or someone you know, repeatedly communicating with you or someone you know, continuously waiting for you outside your home, work or other place, engaging in threatening behaviour against you or someone in your family, etc.

**Hate Crime:** Means and includes anyone who incites hatred, promotes, or acts against any identifiable group where such incitement is likely to lead to a breach of the peace.

**Health Care Provider:** A regular health care provider is defined as a health professional that a person sees or talks to when they need care or advice about their health. This can include a family doctor or general practitioner, medical specialist, or nurse practitioner.

**HRT:** Hormone therapy is the use of sex hormones to alter secondary sex characteristics. The hormone *estrogen* (often combined with other medications) can be used to feminize the body. The hormone *testosterone* can be used to masculinize the body. Either can be used in lower doses to achieve a more androgynous effect.

**ID:** Any government document that includes your name, date of birth, photo and signature that has been issued by a federal, provincial, territorial or state government authority, or the equivalent abroad. This includes:

- Canadian passport,
- Driver's licence (issued by a province or territory, or the equivalent),
- Health card (issued by a province or territory, or the equivalent),
- Certificate of Indian Status,
- Military ID,
- Foreign passport

**Indictable Offence:** The more serious category of offences, which generally have no minimum penalty but can carry sentences as severe as life imprisonment without possibility of parole for twenty-five years. Indictable offences are tried on an indictment and might have a preliminary inquiry. In most cases, an accused has an election as to mode of trial, though this is not the case for absolute jurisdiction offences or exclusive jurisdiction offences.

**Infants Act:** Explains the legal position of children under the age of 19. Topics include duties and obligations of the public guardian and trustee of the child, medical treatment, infants' contracts, and other general areas including the refusal of consent by the public guardian, the leasing of land belonging to infants, and if a child has no guardian.

**Legal Counsel:** means a member of the society, and includes a member of the governing body of the legal profession in another province or territory of Canada who is authorized to practice law in that province or territory.

**Medical Practitioner:** a person who is skilled in the science of medicine, also known as a doctor.

**Misgender:** When someone is addressed using the wrong gendered language. For example, saying "Mr. Jamie Williams introduced himself" when Jamie Williams is a woman and uses Ms. and she/her pronouns or is non binary and uses Mx. and they/them pronouns. Mx. A gender-neutral or genderless title that some people use instead of Mr. or Ms. Pronounced like "mix."

**Medical Services Plan (MSP):** The public health insurance in BC available to eligible residents, which includes Canadian citizens and permanent residents.

**Non-Binary:** An umbrella term used to describe gender identities that are not exclusively male or exclusively female. This includes those who identify as neither ("agender"), a third gender, or a combination of genders. Non-Binary people are also considered transgender (or trans).

**Office of the Correctional Investigator(OCI):** The Office of the Correctional Investigator (OCI) is the ombudsman for federally sentenced offenders. The OCI provides independent oversight of the Correctional Service of Canada (CSC) by providing accessible, impartial and timely investigation of individual and systemic concerns. The OCI also helps CSC fulfill its mandate to support offender rehabilitation and maintain public safety by identifying issues of mutual concern in the federal correctional system.

**Parent:** in respect of a student or of a child registered under Section 13 of the BC School Act:

1. a parent or other person who has guardianship or custody of the student or child, other than a parent or person who, under an agreement or order made under the Family Law Act that allocates parental responsibilities, does not have parental responsibilities in relation to the student's or child's education, or
2. a person who usually has the care and control of the student or child

**Parole:** a conditional release of a prisoner serving an indeterminate or unexpired sentence.

**Person of Authority:** a person who has authority over another person : a person who has the power to give orders or make decisions.

The definition of "person in authority" typically refers to those formally engaged in the arrest, detention, examination or prosecution of the accused and so applies to police officers and prison officials or guards (R v Hodgson 1998 headnote)

**Physician or Doctor:** a qualified practitioner of medicine.

**Pronouns:** Commonly used pronouns in the English language include she/her, he/him, and they/them. They/them is used in the singular for both unknown and known individuals. For example, "Someone just left, but I didn't see who they were." and "Sam has just arrived, and they are ready for their appointment."

**Provincial Prison:** prison includes a penitentiary, common jail, public or reformatory prison, lock-up, guard room or other place in which persons who are charged with or convicted of offences are usually kept in custody; (prison).

**RCMP:** Royal Canadian Mounted Police. For 150+ years, the Royal Canadian Mounted Police (RCMP) has been Canada's national police service.

**School:** a body of students that is organized as a unit for educational purposes under the supervision of a principal, vice principal or director of instruction; the teachers and other staff members associated with the unit, and the facilities associated with the unit

**Search Incident to Arrest:** The power of a police officer to search a person who has been arrested. The arrest must have been lawful; the search must be for some purpose related to that arrest and must be conducted reasonably. No separate reasonable grounds are necessary to conduct the search, which is justified if the arrest itself was lawful.

**Sex segregated facility:** divided in facilities or administered separately for members of different groups, such as biological sex.

**State-actor:** a state actor is a person acting on behalf of a governmental body, such as a police officer.

**Superintendent:** the person designated or appointed by the minister under section 11.1 (0.1) of the [BC School Act](#).

**Teacher:** means a person holding a certificate of qualification who is employed by a board to provide an educational program to students in a school, but does not include a person appointed by a board as superintendent of schools, assistant superintendent of schools, principal, vice principal or director of instruction.

**Teachers' union:** means a teachers' union or the Provincial union as defined in the Public [Education Labour Relations Act](#).

**They/Them:** Gender-neutral pronouns that can be used in singular or plural form. In the singular, it is used when someone's pronouns are unknown, by people whose gender identity may be transgender, non-binary or agender, or people who do not use gendered pronouns. Using they as a pronoun avoids assuming a person's gender and misgendering.

**Transgender:** Transgender, frequently abbreviated to 'trans' or 'trans\*' (the asterisk was intended to actively include non-binary and/or non-static gender identities such as genderqueer and genderfluid, but has fallen out of frequent use throughout the 2010s) is an umbrella term for a wide range of experiences and identities for people whose gender does not match with the gender they were assigned at birth. Identifying as trans is something that can only be decided by an individual for themselves and does not depend on criteria such as surgery or hormone treatment status.

**Transition/Medical Transition:** Refers to the process during which trans people may change their gender expression and/or bodies to reflect their gender, including changes in physical appearance (hairstyle, clothing), behaviour (mannerisms, voice, gender roles), identification (name, pronoun, legal details), and/or medical interventions (hormone therapy, gender-affirming surgery).

**Trustee:** a member of a school board.

**Trustee election:** an election for one or more trustees for a trustee electoral area.

**Warrant:** a document issued by a legal or government official authorizing the police or some other body to make an arrest, search premises, or carry out some other action relating to the administration of justice.

**Ze/zir:** A pronoun used instead of they/them. Ze sounds like "zee." Zir sounds like "zere," rhymes with "here."

## DEFINITIONS FOR GENDER-AFFIRMING SURGICAL PROCEDURES

### Feminizing Procedures

- **Breast construction:** is a gender-affirming, feminizing, upper body surgery that creates or enlarges one's breasts.
- **Orchiectomy:** is a gender affirming lower body surgery that removes the gonads (testes) and spermatic cord. It can be done with or without scrotoectomy (removal of scrotal sac).
- **Vaginoplasty:** is a gender-affirming, feminizing, lower body surgery that creates a vagina and vulva (including a mons, labia, clitoris and urethral opening) and removes and inverts the erectile tissue (penis), gonads (testes) and external genital (scrotal sac).
- **Vulvoplasty:** is a gender-affirming, lower body surgery that creates the vulva (including mons, labia, clitoris, and urethral opening) and removal of penis, scrotum, and testes.

### Masculinizing Procedures

- **Chest masculinization (mastectomy, also called top surgery):** is a gender-affirming, upper body surgery that removes unwanted chest (breast) tissue and sculpts the remaining tissue into a flatter shape. Chest construction is a term that refers to both chest reduction surgery (procedure to reduce the amount of chest tissue) and full bilateral mastectomy.
- **Metoidioplasty:** is a gender-affirming lower body surgery that creates a penis by cutting ligaments around the erectile tissue (clitoris) to release it from the pubis and give the shaft more length (4 to 6 cm).
- **Clitoral release:** is a gender-affirming, lower body surgery that creates a penis by cutting ligaments around the erectile tissue (clitoris) that has been enlarged by testosterone to release it from the pubis and give the shaft more length (4 to 6 cm). A scrotum can be created from the labia. Testicular implants can be inserted in the scrotum in a separate surgery, months later.
- **Phalloplasty:** is a gender-affirming lower body surgery that takes place over multiples surgeries. These procedures create a penis and scrotal sac, testicular and penile implants.
- **Hysterectomy with bilateral salpingo-oophorectomy:** are two gender-affirming lower body surgeries. Hysterectomy removes all or part of the uterus and sometimes the reproductive organs (ovaries or fallopian tubes). Oophorectomy removes one or both of the ovaries.
- **Penile and testicular implant surgery:** The insertion of the penile implant is a surgical procedure during which the implant is inserted into the phallus that was formed during your phalloplasty. The insertion of a testicular implant or implants is a procedure that involves inserting 1 or 2 gel-filled testicular implants into the scrotum. The insertion provides the genitals with a more masculine appearance.

# Appendix A: Definitions

## References

1. <https://legal-dictionary.thefreedictionary.com>
2. **Merriam-Webster** - <https://www.merriam-webster.com/dictionary/>
3. **Human Rights Code, RSBC 1996**, c 210, s 3.
4. **Canadian Human Rights Commission**, <https://www.chrc-ccdp.gc.ca/eng/content/human-rights-in-canada>
5. **Canadian Bar Association, BC:**  
[https://www.cbabc.org/CBAMediaLibrary/cba\\_bc/pdf/Resources/Gender\\_Inclusive\\_Pronouns\\_FAQ.pdf](https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/Resources/Gender_Inclusive_Pronouns_FAQ.pdf)
6. **College of Physicians and Surgeons of British Columbia:** <https://www.cpsbc.ca/about-us/mission>
7. **Correctional Services Canada:** <https://www.canada.ca/en/correctional-service.html>
8. **Arbitrary Detention:** <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd1/check/art9.html>
9. **Human Rights Clinic:** <https://bchrc.net/legal-information/do-i-have-a-complaint/>
10. **Irwin Law:** <https://irwinlaw.com/cold/expungement-order/>
11. **Family Law Act:** [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/11025\\_00](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/11025_00)
12. **R. v. Ivan (2000)**, 233 W.A.C. 141, 142 B.C.A.C. 141, 2000 BCCA 452, [2000] B.C.J. No. 1808, 148 C.C.C. (3d) 295, 2000 CarswellBC 1797 (B.C. C.A.) at para. 8 Hollinrake J.A.
13. **Qmunity:** <https://qmunity.ca/resources/queer-glossary/>
14. **Provincial Health Services Authority,**
  - a. **Trans Care BC**
    - i. <http://www.phsa.ca/transcarebc/trans-basics/glossary>
    - ii. <http://www.phsa.ca/transcarebc/hormones/hormone-therapy>
15. **R. v. LeBeau (1988)**, 41 C.C.C. (3d) 163, 62 C.R. (3d) 157, [1988] O.J. No. 51, 1988 Carswell Ont 46, 25 O.A.C. 1 (Ont. C.A.) at para. 26 Brooke, Blair and Morden JJA.
16. **Criminal Harrassment Definition:** <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/reporting-a-crime/what-is-a-crime/crime-examples/criminal-harassment>
17. **Government of Canada:** <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-319.html>
18. **Health Fact Sheets: Primary health care providers, 2017" Statistics Canada:** <https://www150.statcan.gc.ca/n1/pub/82-625-x/2019001/article/00001-eng.htm>
19. **Government of Canada:** <https://www.canada.ca/en/immigration-refugees-citizenship/services/canadian-passports/new-adult-passport/identity-documents.html>
20. **Criminal Procedure 4th edition, Steve Coughlan:** <https://irwinlaw.com/cold/indictable-offence/>
21. **Health Link BC:** <https://www.healthlinkbc.ca/healthlinkbc-files/infants-act-mature-minor-consent-and-immunization>
22. **Legal Profession Act [SBC 1998] CHAPTER 9.**
23. **CSC and the Office of the Correctional Investigator:** <https://www.csc-scc.gc.ca/publications/005007-2800-en.shtml>
24. **Government of Canada:** <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-1.html#h-115011>
25. **BC Government:** <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/understanding-criminal-justice/key-parts/corrections/correctional-centres>
26. **RCMP About:** <https://www.rcmp-grc.gc.ca/en/about-rcmp>
27. **Google:** <https://www.google.com>
28. **Provincial Health Services Authority, Trans Care BC:** <http://www.phsa.ca/transcarebc/surgery/gen-affirming/feminizing>
29. **Provincial Health Services Authority, Trans Care BC:** <http://www.phsa.ca/transcarebc/surgery/gen-affirming/masculinizing>
30. **GrS Montreal:** <https://www.grsmontreal.com/en/surgeries/female-to-male-ftm-ftx.html>
31. **School Act, RSBC 1996, c 412:** [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96412\\_01#section1](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96412_01#section1)
32. **School Act, RSBC 1996, c 412** [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96412\\_00\\_multi](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96412_00_multi)

# Appendix B: Resources

## A Way Home Kamloops

653 Victoria Street,  
Kamloops, BC V2C 2B3  
Phone: 250-828-0446

## Access Pro Bono

300-845 Cambie Street,  
Vancouver, BC V6B 4Z9  
Toll Free: 1-877-762-6664  
Phone: 604-482-3195  
Fax: 250-314-1605  
Email: help@accessprobono.ca

## APB Lawyer Referral Services

Phone: 1-800-663-1919  
Metro-Vancouver Phone:  
604-687-3221

## Ask Wellness

433 Tranquille Road,  
Kamloops, BC V2B 3G9  
Phone: 250-376-7558  
Email: a.tenisci@askwellness.ca

## BC Kids Help Phone

Phone: 1-800-668-6868  
Website:  
<https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>

## BC Vital Statistics

### For legal change of gender marker:

478 Bernard Ave, #305,  
Kelowna, BC  
V1Y 6N7

### For legal change of name:

PO Box 9657 Stn Provincial  
Government,  
Victoria, BC  
V8W 9P3

## BYRC Resource Room

2780 East Broadway,  
Vancouver, BC V5M 1Y8  
Phone: 604-412-7950  
Fax: 604-412-7951  
Email: info@pcrs.ca

## Canadian Mental Health Association-Kamloops

651 Victoria Street,  
Kamloops, BC V2C 2B3  
Main Phone: 250-374-0440  
Toll-Free(BC only): 1-888-674-0440  
Email: kamloops@cmha.bc.ca

## Cathrine White Holman Wellness Center

1145 Commercial Drive,  
Vancouver, BC V5L 3X3  
Email: contactus@cwhwc.com  
To request an appointment with a  
lawyer, email: lawyer@cwhwc.com



# Resources

## Elizabeth Fry Legal Clinic

### Main Office:

827 Seymour Street, Kamloops,  
BC V2C 2H6  
Phone: 250-374-2119  
Fax: 250-374-5768

### Legal Services Office:

702-235 1ST Avenue,  
Kamloops, BC V2C 3J4  
Phone: 250-314-1900  
Fax: 250-314-1605

## Emerald Center Emergency Shelter

259-271 Victoria Street West,  
Kamloops, BC V2C 1A5  
Women's Shelter: 250-828-1121  
Men's Shelter: 250-372-3031  
Shelter & Housing Office: 250-374-1090

## Gender Surgery Program BC

2775 Laurel Street, Station 4A, 7th  
Floor, DHCC  
Vancouver, BC V5Z 1M9  
Phone: 604-875-5060  
Fax: 604-875-5075  
Email:  
GenderSurgeryProgramBC@vch.ca

## GrS Montreal

999, rue De Salaberry,  
Montreal , Quebec H3L 1L2  
Phone: 514-288-2097  
Fax: 514-288-3547  
Online:  
<https://www.grsmontreal.com/en/contact-us.html>

## Henry Leland House

1-506 St. Paul Street,  
Kamloops, BC V2C 2J9  
Phone: 250-374-5060  
Fax: 250-374-5062

## Hope Air

207 - 124 Merton St,  
Toronto ON M4S 2Z2  
Phone: 416-222-6335 or  
1-877-346-4573  
Fax: 416-222-6930  
Email: mail@hopeair.ca

## Canadian Mental Health Association-Kamloops

651 Victoria Street,  
Kamloops, BC V2C 2B3  
Main Phone: 250-374-0440  
Toll-Free(BC only): 1-888-674-0440  
Email: kamloops@cmha.bc.ca

## Indigenous Community Legal Clinic

148 Alexander St. Vancouver, BC  
Phone: 604-822-1311  
Fax: 604-984-7874  
Email: iclc@allard.ubc.ca

## Interior Community Services - Youth Street Services

408 Seymour Street,  
Kamloops, BC V2C 2G6  
Phone: 250-374-7435

# Resources

## Interior Health

505 Doyle Avenue,  
Kelowna, BC V1Y 0C5  
Phone: 250-469-7070  
Fax: 250-469-7068

### Patient Care Quality Office

505 Doyle Ave  
Kelowna, BC; V1Y 0C5  
Phone (toll-free): 1-877-442-2001  
Online form:  
<https://www.interiorhealth.ca/information-for/patients-and-visitors/patient-care-quality-office/submit-patient-care-feedback>

## Emerald Center Emergency Shelter

259-271 Victoria Street West,  
Kamloops, BC V2C 1A5  
Women's Shelter: 250-828-1121  
Men's Shelter: 250-372-3031  
Shelter & Housing Office: 250-374-1090

## John Howard Society

100-529 Seymour Street,  
Kamloops, BC V2C 0A1  
Phone: 250-434-1700  
Fax: 250-434-1701  
Email: info@jhstr.ca

## Kamloops Native Housing Society

742 Mount Paul Way,  
Kamloops, BC V2H 1A9  
Phone: 250-374-1728

## Lii Michif Optemisiwak Family and Community Services

Phone: 250-554-9486

## LSLAP (Law Students Legal Advice Program)

The University of British Columbia,  
Allard Hall, Room 129  
1822 East Mall,  
Vancouver, BC V6T 1Z1  
Phone: 604-822-5791  
Fax: 604-822-1661

## New Life Mission Corporate

181 West Victoria Street,  
Kamloops, BC V2C 1A5  
Phone: 250-434-9898

## PACE Society

148 West Hastings Street,  
Vancouver, BC V6B 1G8  
Phone: 604-872-7651  
Email: infor@pace-society.org

## PharmaCare BC

PO Box 9655 Stn Prov Govt,  
Victoria BC V8W 9P2  
Lower Mainland: 604-683-7151  
BC and toll-free: 1-800-663-7100



# Resources

## Public Health Services Authority (PHSA)

### Patient Care Quality Office

Suite 200, 1333 West Broadway,  
Vancouver BC V6H 4C1  
Toll-free): 1-888-875-3256  
Fax: 1-604-708-2762  
Email: pcqo@phsa.ca

### Trans Care BC

Toll-free (BC): 1-866-999-1514  
non-toll-free (out of BC):  
604-675-3647  
Email: transcareteam@phsa.ca  
Online contact form:  
<http://www.phsa.ca/transcarebc/about/contact>

## QMUNITY

1170 Bute Street,  
Vancouver, BC V6E 1Z6  
Phone: 604-684-5307 Ext. 100  
Email: reception@qmunity.ca

*Please note there are 23 flights of stairs leading to this office, if you require a meeting in QMUNITY's accessible space, please contact them beforehand*

## Rainbow Refugee

1170 Bute Street,  
Vancouver, BC V6E 1Z6  
Email: info@rainbowrefugee.ca

## Rise Women's Legal Center

516 Richards Street,  
Vancouver, BC V6B 3A2  
Phone: 604-451-7447  
Potential Clients: 236-317-9000  
Fax: 604-304-4072  
Email: intake@womenslegalcenter.ca

## Safe Spaces @ ICS Kamloops

765 Tranquille Road,  
Kamloops, BC V2B 3J3  
Phone: 250-371-3086  
spaces@interiorcommunityservices.bc.ca

## The Mustard Seed Kamloops Outreach Center

181 Victoria Street West  
Kamloops, BC V2C 1A5  
Phone: 250-434-9898  
Email: InfoKamloops@theseed.ca

## Thompson Rivers University Legal Clinic

204-246 2nd Avenue,  
Kamloops, BC V2C 2C9  
Phone: 778-471-8490

## Transcare BC

Phone (BC): 1-866-999-1514 Phone  
(outside of BC): 604-675-3647  
Email: transcareteam@phsa.ca

# Resources

## Travel Assistance Program BC

Phone (BC): 1-800-663-7100

Phone (Vancouver): (604) 683-7151

## UVic Trans ID Clinic

University of Victoria

Student Union Building: Room B107

Phone: 250-721-8353

Email: gemcentre@uvss.ca

## Victoria Youth Clinic

818 Douglas Street, Victoria, BC V8W

2B6 Phone: 250-383-3552

Fax: 250-383-3502

## Women's College Hospital

76 Grenville Street,

Toronto, ON, M5S 1B2

Phone: 416-323-6400

Email: info@wchospital.ca

## Y Women's Emergency Shelter - Kamloops

Phone: 250-374-6162

Email: shelter@kamloopsy.org



# Appendix C: The Human Rights Complaint Process for Transgender People in B.C.

An Out/Law Legal Guide  
by  
Barbara Findlay QC



The first thing to know is that there is a six month time limit to file a BC human rights complaint so **DO NOT WAIT**

This booklet will help you

- Understand if the mistreatment you have received is a human rights violation
- Know what the process of filing a human rights complaint will be;
- Get free legal advice about your situation
- Tell you what you can expect to get if you win your human rights complaint

## Do you have a human rights complaint?

Transgender people face stigma, prejudice and mistreatment in all parts of their lives. Is the mistreatment a human rights violation?

All trans people are covered by human rights legislation both provincially and federally. It does not matter whether 'gender identity' has been added to the law. Trans people are protected from discrimination by the ground 'sex'.



Human rights protection applies if you are discriminated against in:

1. Employment, employment ads, and wages.
  - a. For example:
    - i. An employer says to you in a job interview, we'd like to hire you but we don't have a unisex washroom, OR
    - ii. Our customers would not feel comfortable dealing with a trans person
    - iii. A co-worker bullies the trans person, and calls them names such as 'tranny' and management takes no steps to correct the situation
    - iv. Company extended health benefits exclude sex reassignment surgery
2. Membership in a union
  - a. For example:
    - i. a union says, 'our membership code applies only to men and women'.

### 3.Tenancy

#### a.For example:

- i.a landlord says 'we don't rent to sexual minorities'; OR
- ii.a landlord sees someone they believe to be male dressing in 'women's clothing' and evicts them.

### 4.Goods or services customarily available to the public

#### a.For example:

- i.A bus driver makes a remark about someone being a he-she;
- ii.A store clerk refuses to give the washroom key that is requested insisting on the other gendered washroom;
- iii.A school board says it cannot accommodate trans students because they do not believe that children should be permitted to transition;
- iv.A hospital puts an FtM individual in a ward for women

### 5.Purchase of property

#### a.For example:

- i.A strata council says they won't admit trans people

Some kinds of mistreatment are not covered by human rights legislation. For example, if someone on the street calls you 'tranny' and throws a rock at you – that is not a human rights complaint because the person is not employing you, denying you a service, etc on the ground that you are transgender.


On the other hand their behaviour may be an assault: call the police!

In general, it is not enough to say, "I applied for a job and I wasn't hired – I am sure it was because I am trans". You **must** be able to show some causal connection, like, maybe the interviewer said something that made you aware that they were transphobic.

Sometimes an employer/landlord/union/property seller/service provider will say, "There is one rule for everyone! No exceptions! And that is not discrimination". They might say that in response to a complaint to use the washroom of your affirmed gender. Another example, "everyone has to use the washroom of the gender they were born into, no exceptions".

Having one rule for everyone might seem fair at first. But if it has a disproportionate impact on a group of people – as that rule has on trans people – then the blanket rule cannot stand. The Respondent has a 'duty to accommodate' the rights of people for whom the rule doesn't work.

In this case, the Respondent would either have to permit trans people to use the washroom of their affirmed gender, or change all the washrooms to gender-neutral. If you are being harassed at work because you are trans, the employer is responsible to stop it – even if the harasser is a coworker. So in a complaint you would name both the coworker and the employer.

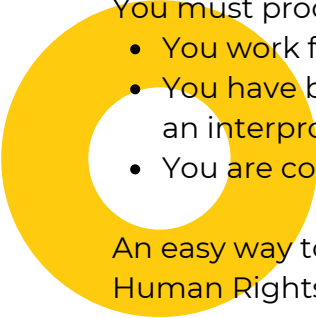


There is now legislation about bullying in the workplace. If you are being bullied at work you file a complaint with Worksafe B.C. This would apply for example if the manager was bullying everyone, not because they were queer or a person of colour or a woman or whatever – but just because the manager was a bully.

### **If you have a human rights complaint is it ‘federal’ or ‘provincial’?**

Most human rights complaints are covered by the B.C. Human Rights Code. But some are not.

You must proceed under the Canadian Human Rights Act if:

- 
- You work for a federal employer such as a bank, airline, etc
  - You have been discriminated against by a federally regulated body such as a bank, an interprovincial trucking firm, etc; or
  - You are complaining about mistreatment by a band council under the Indian Act

An easy way to find out if your complaint is covered by the B.C. Code is to phone the B.C. Human Rights Tribunal and ask. Their number is: 604-775-2000.

**This booklet deals only with provincial human rights cases.**

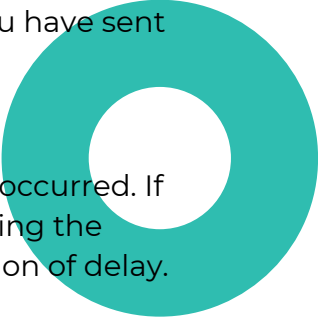
### **How to file a complaint**

In B.C.:

1. You first go to the website of the B.C. Human Rights tribunal: [www.bchrt.com](http://www.bchrt.com)
2. Click on ‘file a complaint’. Up comes a complaint form. There is help in filling out the form from the same website. The booklet “BRITISH COLUMBIA HUMAN RIGHTS TRIBUNAL GUIDE 2 – Making a Complaint and guide to completing a Complaint Form “ is your guide to completing the form correctly.
3. Make every effort to fill out all the spots, and provide LOTS OF DETAIL about the things that have happened to you. This is because the Tribunal will decide whether you have a chance at winning a human rights case by reading what you have sent them.

### **File your complaint on time**

Make sure that you file your complaint within six months since the events occurred. If you are already outside that time limit, explain in detail why you are late filing the complaint in the section of the complaint form that asks for your explanation of delay.



The Tribunal has a very limited power to accept complaints that are filed late. Typically they do not accept as an explanation that you did not realize you had a human rights complaint, or that you were so traumatized by the discrimination that you could not deal with filing a complaint within the six month period.



You can get help filling out the complaint form:

- At the BC Human Rights Tribunal on Mondays, from 9:30 to 4:30, at the drop in clinic run by the B.C. Human Rights Coalition
- At the Catherine White Holman Wellness Clinic on the **fourth** (not the last) Monday of the month from 6:30 to 9:30, at REACH Community Health Clinic, 1145 Commercial Drive, Vancouver.

But: if you are running out of time for the six month time limit, file your complaint and then ask questions. It is easier to request to change the complaint than it is to get permission to file it late.

### **After filing the complaint: getting free legal help to act for you**

Once you have filed your complaint, the B.C. Human Rights Tribunal will review it and tell you if it is within their mandate. They will send you a letter.

As soon as you receive that letter, make an application through the website of the B.C. Human Rights Coalition for help to represent you with respect to your complaint:

<http://bchrcoalition.org/files/HowtoApplyforRepresentation.html>

You only have 30 days from the date of the acceptance letter from the Tribunal.

*NOTE: The Coalition will not consider a request for representation until you have a letter accepting your complaint by the B.C. Human Rights Tribunal.*

Since this is the door for the only free legal representation in B.C., make sure you follow their steps. Make sure you understand the conditions the Coalition requires. You must agree that if they think you should settle your complaint, you will. If you don't, they can stop representing you.

The B.C. Human Rights Coalition partners with CLAS, the Community Legal Assistance Society. CLAS appoints free lawyers, within their resource limitations, to act for human rights complainants referred to them by the Coalition. In those cases, the B.C. Human Rights Coalition acts for the Complainant until the time for a hearing. A CLAS lawyer acts for the complainant at the hearing.

### **Sometimes...the Bad News**

Sometimes the Respondent files an 'application to dismiss' your complaint. They may argue that it is past the six month filing date, or that even if you proved all the facts in the complaint you would not succeed in proving discrimination under the Code, or that the issue has already been dealt with in another forum like a grievance procedure, for example.

If that happens to you, you will need to get some legal help to know how to respond. If you already have representation by the B.C. Human Rights Coalition, they will answer this on your behalf. They will also represent you at an Early Settlement Meeting.

## Early Settlement Meeting

Do you want an Early Settlement Meeting? This is one of the questions on the complaint form. Your answer is probably 'yes'.

An Early Settlement Meeting (ESM) is a confidential meeting held between you, the Complainant, and the body you are complaining against, the Respondent. There is a mediator appointed by the Tribunal to help parties arrive at a settlement of the complaint. The service is free. If you do not settle, the complaint continues on to a hearing before the Tribunal.

So you have nothing to lose. More than 90% of all complaints are settled or otherwise dealt with before a tribunal hearing.

At the Early Settlement Meeting you can take a lawyer or representative. The mediator will be able to help you understand what the range of award might be if you went to a hearing at a tribunal. That is helpful because it lets you know whether to settle for a certain amount or not.

At an ESM you can ask for conditions that are not monetary. For example you can ask that an employer who did not respond to bullying have an anti-bullying program at the workplace. All the parts of a settlement must be by agreement. Unless the parties agree otherwise the terms of the settlement are confidential.

Think about what you want to get from the complaint: what your 'optimum' and what your 'minimum' settlement would be.

The proceedings at an ESM are informal. Everyone – you and your representative, the respondent and their representative – meet together with the mediator in a boardroom, at the beginning. The mediator has everyone sign a confidentiality agreement; and then talks about what the process will be like. After that, the Complainant describes what happened, without interruption. Then the Respondent describes what their version of events is. There is usually a chance for each side to ask questions of the other.

Often the mediator will then separate the parties into breakout rooms, and go back and forth to see if they can find a way to settle the complaint that both parties can agree to.

### Don't be surprised

Standard features of a settlement include terms

- That the agreement be kept confidential; and
- That the Respondent is not admitting liability

However if you have an agreement that the Respondent will, for example, develop some trans-affirming policies or do some training with its staff, that training obviously will not be confidential.

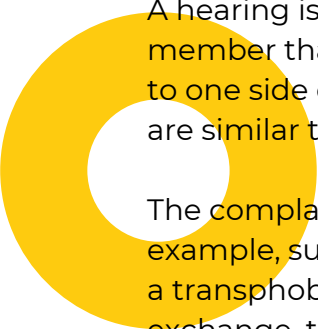


## If you Don't Settle

If you don't settle, you are on your way to a hearing at the human rights tribunal. As a first step the Respondent has to file a response to your complaint, saying what its position is.

The tribunal will schedule a hearing, typically many months down the road, for a number of days that it thinks will be needed to hear all the evidence. If you are complaining about one incident, the hearing could be as short as a couple of days. If you are complaining about a long series of events over a great period of time, much more time will be required.

## At the Hearing



A hearing is held in front of a member of the Tribunal. But it won't be the same tribunal member that you had when you went to the ESM because that member could be biased to one side or the other. The hearing is held in a board room. It is not recorded. The rules are similar to the rules in a court case.

The complainant goes first. They call the witnesses who will prove their case. For example, suppose the cashier at the drug store you were shopping in for makeup made a transphobic remark. You would testify yourself. If you have a witness who heard the exchange, they would also testify.


After each of your witnesses gives evidence the Respondent has a right to 'cross examine' them: ask questions. It is similar to court room shows you see on tv.

You have to prove every element of your case. Let's suppose your complaint said that the B.C. government should be providing depilation (facial hair removal or electrolysis) therapy as part of the medical services that are covered in B.C. You would need to prove:


- That some people could get depilation therapy covered by MSP – for example, people who have a condition called hirsutism which makes one's whole body hairy;
- That your doctor says that the treatment is medically necessary for you. NOTE: your doctor has to give evidence at the hearing
- That you asked for MSP coverage and they refused

If you neglected to prove that your doctor said you needed electrolysis then you would lose your case!!

When you have called all your witnesses, the Respondent calls their witnesses. You have a right to cross examine each of their witnesses. You have a right to call witnesses again if the Respondent has brought up a point that you didn't cover the first time. You can only have a 'reply' witness if you could not have anticipated the Respondent's evidence – if you could have, you have to put it in evidence in the first place.

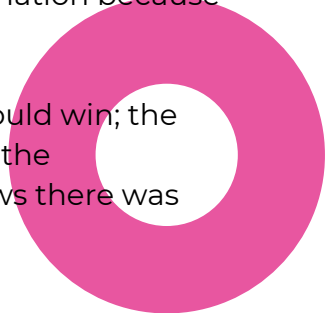






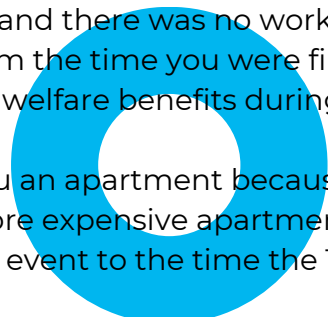
Your witnesses will give evidence both about what happened, and about what the consequences were. You need to prove the consequences of the discrimination because that is what determines how much money you will get.

After all the evidence is heard, you make an argument about why you should win; the Respondent argues why they should win; and you have a right of reply to the Respondent's argument. You have to argue about how the evidence shows there was discrimination, and about what 'remedy' you should have.



## Remedy

There are three kinds of remedy for discrimination under the B.C. Human Rights Code.

1. First, the tribunal must order the Respondent to cease and desist from repeating its discriminatory conduct. And the Tribunal may order the Respondent to take particular steps to remedy the discrimination. If the complaint was about a policy forbidding trans people from using the washroom of their affirmed gender, the Tribunal could order that the Respondent change the policy and (for example) make the washrooms gender neutral.
  2. Second, you can be compensated for any money you lost.
    - a. Suppose you were fired because you insisted on using the washroom of your affirmed gender. You have to prove that you looked hard for a replacement job; but if you can show that, you looked hard and there was no work (or no work for a period of time), you will get 'wage loss' from the time you were fired till the date of the Tribunal decision. (But if you had EI or welfare benefits during that time you have to pay them back from the award).
    - b. Suppose that someone refused to rent you an apartment because you were transgender, and you could only find a more expensive apartment. You can claim the difference in rent from the time of the event to the time the Tribunal makes its decision.
  3. Third, you can claim for 'injury to dignity'. This is like "general damages" in a lawsuit. It is a sum of money intended to compensate you for the insult of being discriminated against. You don't have to prove that you lost a particular amount of money. But you might want to prove for example that you ended up with PTSD as a result of the employer failing to deal with a transphobic coworker; or that you were so humiliated by the conduct of the bus driver that you haven't been able to get on a bus since.
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How much will you get for injury to dignity?

The answer is: not much.

The highest award in B.C. for injury to dignity is \$35,000. An amount in that range might be awarded if for example your boss sexually assaulted you at work.

For less serious breaches of the Human Rights Code you might get between \$5000 and \$15000. The only way to find out what you might be looking at is to read other cases decided by the Tribunal, all of which are available at <https://www.bchrt.bc.ca>, to see what amounts are awarded in different kinds of cases.

The small size of human rights awards makes it very hard to pursue a human rights complaint. To hire a lawyer to help with your claim will often cost more than the award you get at the end of a hearing, if the matter is not settled at an ESM. In that way, your human rights are really just paper rights, because most people cannot afford to pursue a case. While the B.C. Human Rights Coalition and CLAS offer free help to some people, they are unable to help everyone who needs it.

## Resources

There are lots of resources for people who want to file a human rights complaint. Some of them are listed below. It is very worthwhile to read through the resources before you file your complaint.

- **BC Human Rights Tribunal:** <https://www.bchrt.bc.ca>
- **BC Human Rights Coalition:** <http://www.bchrcoalition.org/>
- **Attorney General of BC:** <http://www.ag.gov.bc.ca/human-rightsprotection/pdfs/EmployerInfo.pdf>
- **Canadian Bar Association-BC:** <https://www.cba.org/For-The-Public>
- **Vancouver Island Human Rights Coalition:** <http://vihrc.org/>
- **Go2:** <https://www.go2hr.ca/explore-all-resources/the-human-rights-code-made-simple>
- **Smeets Law Office:** <http://smeetslaw.com/human-rights>
- **University of the Fraser Valley:** <https://www.ufv.ca/hrcro/human-rights-code-of-british-columbia/>

This booklet is published by The Law Office of Barbara Findlay QC. It is current to 8/13.

The booklet provides legal information only. It is not legal advice. For an assessment of your individual situation, you can get a ½ hour appointment for \$25 by calling the Lawyer Referral Service and asking for a lawyer who does human rights.

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