

# Discrimination at School?

Answer  
Key

Learning and Evaluation Situations  
*Ethics and Religious Culture Secondary Cycle II*



## SPECIAL THANKS

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## IMPORTANT NOTICE

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# Preparation

## 1. What is discrimination?

Discrimination refers to not respecting someone's right to equality. Discrimination happens when someone is prevented from

1. enjoying the same rights and services as other people
2. because of a personal characteristic mentioned in the charters. These characteristics are the **prohibited grounds of discrimination**. They include characteristics such as religion, ethnic origins or a disability.

Discrimination can be direct: depriving someone of his or her rights based on a prohibited ground of discrimination. But it can also be indirect. Indirect discrimination happens when a rule that appears to apply to everyone in the same way has the effect of discriminating against some people.

## 2. What is reasonable accommodation?

It means accommodating someone by adapting a situation. The goal of the adaptation is to ensure that this person can enjoy the same rights as others, despite that he or she is different in some way.

The "reasonable" element refers to the fact that the adaptation cannot impose undue (excessive) hardship on the organization being asked to adapt. In particular, the accommodation cannot

- be too expensive for the organization,
- interfere with the proper operation of the organization, or
- violate the rights or jeopardize the safety of other people.

It might be interesting to mention that, if a person decides it isn't necessary to ask for an accommodation measure, there is no issue to work out. It therefore depends on how the person feels about the situation.

## 3. Do reasonable accommodation measures always relate to religious issues? Can other issues give rise to reasonable accommodation measures?

Reasonable accommodation does not always related to religious issues. Accommodation can arise in many situations. Here are some examples: :

- A disability
  - e.g., letting a blind person be accompanied in a voting booth during elections
- Pregnancy
  - e.g., letting a pregnant woman take a break from work for an ultrasound
- A medical condition
  - e.g., in a cafeteria, making a version of a dish without nuts

To answer this question, students can refer to the summary table about the charters.

#### 4. What are the essential features of mediation?

The people involved try to work together to find a solution that suits both sides.

The lawyer involved helps the people negotiate (unlike a judge who has to make a judgement about the issue).

It might be interesting to mention that not all conflicts end up before the courts: if the people involved can reach a solution on their own or with the help of a mediator... the issue is solved!

### Activity 1

#### 1. What is a charter?

It is a text that guarantees certain human rights and freedoms.

Charters set standards for other laws. This means that other laws must respect the charters.

#### 2. Who must respect the Canadian and Quebec charters of rights?

- **Canadian charter:** the federal and provincial governments. Note that this means governments in a large sense (departments, agencies, police officers, public schools, etc.)
- **Quebec charter:** individuals in Quebec, the Quebec government and non-governmental organizations (businesses, private schools, etc.)

#### 3. Name two grounds for discrimination prohibited by the Quebec charter.

- Age (excepted as provided by law)
- Sex
- Gender identity or expression
- Sexual orientation
- Colour, ethnic or national origins
- Disability or an aid to cope with a disability
- Civil status (e.g., married, single, divorced)
- Pregnancy
- Religion
- Political beliefs
- Language
- Social status (e.g., rich, poor)

#### 4. Identify one difference between the content of the Canadian and Quebec charters (other than the dates the charters were adopted).

- The Canadian charter protects
  - the rights of aboriginals, and
  - rights regarding the use of French and English.
- The Quebec charter has
  - more explicit protection for privacy rights and
  - protection for economic and social rights (e.g., free public education and fair working conditions).

### Dialogue: Do the charters have gaps?

#### Despite what the Quebec charter says, do you think this is an injustice? Why?

- **Yes:** Just because it is legal doesn't mean it is fair.
- **Yes:** When we guarantee rights, we should do it in a very complete way, so we can avoid situations like this.
- **No:** The camper should have checked the menu before signing up for this camp.
- **No:** The government knew what it was doing when it limited the kinds of rights protected by the Quebec charter.

Possible  
Answers

#### Could vegetarianism fall under another ground for discrimination prohibited under the Quebec charter? If so, which one (or which ones)?

- Some Hindus don't eat meat for religious reasons. (**religion**)
- Some people can't eat meat due to illness. (**disability**)
- A vegetarian who advocates for the protection of animals. (**political beliefs**)

Possible  
Answers

[These examples don't necessarily reflect what the law currently says.]

#### Do you think that vegetarianism should be a kind of discrimination prohibited by the Quebec charter?

- **Yes:** There is a lot of prejudice against vegetarianism and we need to fight this prejudice.
- **Yes:** We should respect everyone's choices and differences, even if this makes the charter more complex.
- **No:** For the most part, vegetarians are not victims of prejudices or stereotyping.
- **No:** This would open the door to more and more grounds of possible discrimination. The charter would become so complicated that it would be ineffective.

Possible  
Answers

#### Can you think of other grounds for discrimination that should be prohibited?

- Clothing choices, hair colour, etc.
- A person's physique (height, weight)
- Tastes in music
- Food preferences

Possible  
Answers

## Activity 2

### 1. In your own words, what is discrimination?

Example: It means treating someone differently and removing some of that person's rights or preventing that person from enjoying the same rights as other people.

### 2. Do you think that discrimination is the same as intolerance? Explain.

- **Yes:** If you discriminate, it's because you are intolerant.
- **Yes:** Being intolerant means treating others with a lack of respect because you don't agree with their values. Intolerance is therefore a kind of discrimination.
- **No:** Sometimes people discriminate without realizing it. The best example of this is indirect discrimination.
- **No:** It is possible to be intolerant without discriminating. For example, you might not like another religion, but still respect the people who practice it.

Possible  
Answers

## Activity 3

**In teams of two, think of a scenario in which a request for accommodation would not seem “reasonable” to you. Explain your thinking.**

- Allowing people to not have photos on their passports because their religion prohibits being in photos. It would be too easy to falsify passports and people's security would be jeopardized.
- Letting people hit other people as part of a ritual. The physical integrity of people must be respected.
- Requiring a company to invest many millions of dollars to adapt all of its building for a disabled person.

Possible  
Answers

It is important for students to say why they think the accommodation is not reasonable. For example, they could explain that the accommodation would be too expensive or would infringe someone's rights. The context of the accommodation is always important.

## Activity 4

### The Multani Case

#### 1. Could this decision apply to other religious practices?

**Yes:** No matter the religious practice or belief, what counts is the sincerity of the belief.

Then you have to look at the impact of the accommodation measure on the rights of others and the burden the measure creates for the school.

Also, remember that accommodations are done on an individual basis. Just because one student has been accommodated does not mean other students automatically get the same accommodation.

## 2. Should we ban all religious symbols in schools?

- **Yes:** The State should be secular. This means that there should be no religious symbols in schools. This is the only way to separate church and State
- **No :** The State should be secular. This means schools as institutions should be secular and teachers and principals should be neutral. But students as citizens should be able to wear religious symbols.

Possible  
Answers

## 3. In your opinion, what is a desirable level of safety at your school? Absolute safety (no scissors, compasses or hockey sticks), or a reasonable level of safety?

- **Absolute:** There are a lot of accidents and injuries at school, so it's better to have strict rules. As long as the school meets its academic standards, there is no reason to complain about safety rules.
- **Reasonable:** Accidents happen in lots of ways. People can get hurt falling on a concrete school yard. A pencil that is too sharp can injure someone. We shouldn't go to extremes to be safe.

Possible  
Answers

## 4. Would the decision in the Multani case be the same in a place where there is a low tolerance for risk, for example, in airports?

No, since airports are not the same as schools. There are more risks to security in airports and a breach of security can have much more serious consequences. Security must be much tighter in an airport.

Context is very important in law. When it comes to reasonable accommodation, you have to look at who is making the request for accommodation, but also at the situation in which the request is made.

## The Collège Notre-Dame Case

### 1. The College didn't offer to adapt its education program or facilities for Maud in response to her special needs. What happens when students are temporarily injured or sick? Should a school have to take special measures in those situations?

- **Yes:** People don't make a decision to be sick or to get injured. Also, there are often students who get sick or injured, so if the school has to spend money to adapt, the investment will end up helping a lot of people.
- **No:** Parents have to find ways to help their children make up for falling behind (for example, a tutor at home). Also, students themselves have to find ways to catch up when they come back to school after an illness or injury, such as by working harder. Schools would be more efficient if they did not have to manage everyone's problems and everyone watched out for themselves.

Possible  
Answers

**2. In your opinion, if the College had a sports-study program aimed mainly at training high-level athletes, could it exclude students with physical disabilities?**

- **Yes:** If the school wanted to train elite athletes, it would have no choice but to adopt stricter admissions policies so it could recruit good athletes.
- **No:** The school can train elite athletes even if these athletes have a disability. Have you ever heard of the Special Olympics?

Possible  
Answers

**3. According to the court, it was reasonable to require the College to adopt accommodation measures to help Maud move around the school and go about her regular activities. Can you think of some examples of accommodation measures that could be put into place?**

- Letting her use the elevators
- Installing ramps
- Making a wheelchair available
- Giving her a desk near the classroom door so she can enter and leave easily

Possible  
Answers

**4. In your opinion, could this decision also apply in the case of a student who suffers from an intellectual disability?**

It is always a question of context: what kind of intellectual disability is it? What are the student's strengths and weaknesses? Has the student been doing well or struggling at school? What does the student need to cope with school? What resources does the school have to accommodate the student?

A court might give different decisions in cases of two students with different disabilities.

As mentioned earlier, how the law is applied is often a question of context: an indication of a good answer would be whether the student asks for more details about the type of disability in issue. A bad answer would be one given without thought to the context.

## Case Studies

Instructions for students: Briefly explain the situation in your own words and identify at least two ethical issues at stake.

Note: It is possible that students will say they would refuse an accommodation measure because they are worried about future similar requests. This type of reasoning should not be accepted.

### Some Possible Answers: Joël

<b>Legal Analysis Framework</b>	<b>YES</b>	<b>NO</b>
<b>1. Was the person who requested the accommodation a victim of discrimination?</b>		
a. Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> There is no other way to access the school.	X	
b. If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section “Prohibited Grounds of Discrimination” in the charters Summary Table.) <u>Yes:</u> Disability	X	
<b>2. Is the accommodation requested reasonable?</b>		
a. Does the accommodation measure respect the rights of others (right to security, freedom, etc.)?	X	
b. Is the accommodation measure within the financial means of the organization being asked to put it into place? <u>Yes:</u> The school no doubt has a fund for renovations, and the adaptations might be needed for other students in the future. <u>No:</u> In the short term, it is not possible to find the money to build a wheelchair ramp.	X	X
c. Can the organization function properly even with the accommodation measure? <u>Yes:</u> The renovations required are relatively simple and can be done on short notice. <u>No:</u> Using the stairs is the only way to access the school. Changing them would interfere with people coming and going.	X	X



## Some Possible Answers: Sarah

Legal Analysis Framework	YES	NO
<b>1. Was the person who requested the accommodation a victim of discrimination?</b>		
a. Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> On Wednesdays in December, Sarah can't use the cafeteria like everyone else. <u>No:</u> All the students have days when they don't like the cafeteria menu for various reasons.	X	X
c. If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section "Prohibited Grounds of Discrimination" in the charters Summary Table.) <u>Yes:</u> The discrimination is based on religion (Islam). <u>No:</u> The menu just doesn't suit Sarah's tastes, period.	X	X
<b>2. Is the accommodation requested reasonable?</b>		
a. Does the accommodation measure respect the rights of others (right to security, freedom, etc.)?	X	
b. Is the accommodation measure within the financial means of the organization being asked to put it into place? <u>Yes:</u> Yes, schools often have several menu choices per day. <u>No:</u> The school has not budgeted money for extra dishes, and in any event, Sarah is the only one who would be eating them.	X	X
c. Can the organization function properly even with the accommodation measure? <u>Yes:</u> The school's operations will not be affected by adding an extra meal choice. <u>No:</u> The school is not organized to offer another meal choice, especially when this would be only temporary.	X	X

**Note:** The time factor does not have a lot of influence, since even temporary discrimination is unacceptable. On the other hand, the time factor can be important when it comes to evaluating the burden the accommodation would put on an organization.

In practice, it is doubtful that many parents would go to court for an accommodation measure that would only last for four days in the year.

## Some Possible Answers: Jessie

Legal Analysis Framework	YES	NO
1. Was the person who requested the accommodation a victim of discrimination?		
a. Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> Jessie absolutely needs her needles to go to school while protecting her health.	X	
b. If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section “Prohibited Grounds of Discrimination” in the charters Summary Table.) <u>Yes:</u> Using an aid (needles) to cope with a disability (diabetes).	X	
2. Is the accommodation requested reasonable?		
a. Does the accommodation measure respect the rights of others (right to security, freedom, etc.)? <u>Yes:</u> The needles will only be used by Jessie. This won't affect the other students. <u>No:</u> A dirty needle could be a danger to other students who might touch it.	X	X
b. Is the accommodation measure within the financial means of the organization being asked to put it into place?	X	
c. Can the organization function properly even with the accommodation measure? <u>Yes:</u> The school's operation would not be affected. All the school would have to do is explain the situation or ask the school nurse to help Sarah. <u>No:</u> Making sure the needles and injections were properly handled would require a lot of oversight.	X	X

## Some Possible Answers: Sasha

Legal Analysis Framework	YES	NO
<b>1. Was the person who requested the accommodation a victim of discrimination?</b>		
a. Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> Because of Sasha's limited French, she cannot understand the exam like everyone else. <u>No:</u> Math exams do not have difficult words. Also, Sasha took the math course in French and did her homework for this class in French.	X	X
b. If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section "Prohibited Grounds of Discrimination" in the charters Summary Table.) <u>Yes:</u> Language	X	
<b>2. Is the accommodation requested reasonable?</b>		
a. Does the accommodation measure respect the rights of others (right to security, freedom, etc.)? <u>Yes:</u> No one will be affected if Sasha is given extra time for the exam. <u>No:</u> Other students will be at a disadvantage if Sasha is given more time, especially since this extra time is not necessary.	X	X
b. Is the accommodation measure within the financial means of the organization being asked to put it into place?	X	X
c. Can the organization function properly even with the accommodation measure?	X	

**Note:** It is important to mention that Sasha's linguistic abilities in French would have to be evaluated.

## Some Possible Answers: Samia

Legal Analysis Framework		YES	NO
<b>1. Was the person who requested the accommodation a victim of discrimination?</b>			
a.	Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> The right to go to school	X	
b.	If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section “Prohibited Grounds of Discrimination” in the charters Summary Table.) <u>Yes:</u> Religious beliefs	X	
<b>2. Is the accommodation requested reasonable?</b>			
a.	Does the accommodation measure respect the rights of others (right to security, freedom, etc.)?	X	
b.	Is the accommodation measure within the financial means of the organization being asked to put it into place?	X	
c.	Can the organization function properly even with the accommodation measure?	X	

## Some Possible Answers: Martin

Legal Analysis Framework		YES	NO
<b>1. Was the person who requested the accommodation a victim of discrimination?</b>			
a.	Does the impact of the rule or practice prevent the person from enjoying the same rights and services as other people? <u>Yes:</u> The right to go to school	X	
b.	If yes, is the person disadvantaged on the basis of one of the characteristics mentioned in the charters? (See the section “Prohibited Grounds of Discrimination” in the charters Summary Table.) <u>Yes :</u> A disability	X	
<b>2. Is the accommodation requested reasonable?</b>			
a.	Does the accommodation measure respect the rights of others (right to security, freedom, etc.)? <u>Yes:</u> Martin has shown in the past that he is able to cope with the regular school program. <u>No:</u> A student with a disability could slow down the class or distract other students during their courses.	X	X
b.	Is the accommodation measure within the financial means of the organization being asked to put it into place? <u>Yes:</u> The school has psychologists to help students having difficulties. <u>No:</u> Where would the money come from to adapt the curriculum for a student? What if this student needed more and more special attention over time? The school cannot cope with this.	X	X
c.	Can the organization function properly even with the accommodation measure? <u>Yes:</u> Martin needs just a few special services to help him cope. The school’s operations would not be affected. <u>No:</u> The school cannot change its way of managing its educational program for just one student. Also, the ability of other students in the class to learn will be affected.	X	X

**Note:** It is important for students to point out that Martin’s abilities have not been evaluated. We don’t know the extent of his current strengths and weaknesses. The lack of an evaluation can be used to support two possible conclusions:

Martin was able to cope in elementary school, but only with special help. This means he might not be able to cope in high school. Alternatively, he was able to cope in elementary school with a bit of help, so he should be able to cope in high school.