

PROFESSIONAL LEARNING ACTIVITY 1

Which right is that?



Victorian Equal Opportunity
& Human Rights Commission

About this activity

This activity develops knowledge and skills to identify human rights in the Charter which are relevant in school settings. Being able to identify human rights is one of the first steps to working out how to properly consider and act compatibly with human rights in accordance with schools' obligations under the Charter.

Note: this activity requires an understanding of the Charter of Human Rights and Responsibilities and the Equal Opportunity Act and should be facilitated by school based human rights leaders who have undertaken the training and coaching program that was part of the pilot project to embed *A Human Rights approach to diversity and inclusion in Victorian Schools*.

For more information please contact the Education and Engagement Branch of the Commission on (03) 9032 3467 or email education@veohrc.vic.gov.au



INSTRUCTIONS

Activity leaders provide rights identification sheets (A3) and the short case studies which should be matched to each right.

Activity leaders instruct staff to work in groups of 2 or 3 and match the case studies to the rights.

Inform participants that they should aim to identify the **MOST** relevant right, noting that it is likely that a number of rights may be raised in any situation.

MATERIALS

1. A3 sheet (to provide to participants at the beginning of the activity)
2. Scenarios (to be cut in order to match to the rights on the A3 sheet and also provided at the beginning of the activity)
3. Answer sheet to be provided at the end of the activity.
4. Answer sheet with facilitators notes

Which right is that?

Charter right	Charter definition	Charter issue
S.10 Protection from torture & cruel, inhuman or degrading treatment	A person must not be tortured, or treated in a way that is cruel, inhuman or degrading. This includes protection from treatment that humiliates a person. A person must not be subjected to medical or scientific experimentation or treatment without their full, free and informed consent.	Match issue
S.13 Privacy & reputation	People have a right to be free from unlawful or arbitrary interference with personal privacy, their bodies, family, home or correspondence.	Match issue
S.14 Freedom of thought, conscience, religion and belief	Every person has the right to have or to adopt a religion or belief of his or her choice and the freedom to demonstrate that religion or belief.	Match issue
S.15 Freedom of expression	People have the right to hold opinions without interference. People have the right to seek, receive and pass on information and ideas through any medium, including through verbal communication, writing, print, art, and sign language. Freedom of expression can be lawfully limited in order to respect others' rights and maintain public safety.	Match issue
S.17 Protection of families & children	Families are entitled to protection and children have the right to protection according to their best interests.	Match issue
S.19 Aboriginal cultural rights	Aboriginal people hold distinct cultural rights to enjoy their identity and culture, maintain and use their language and kinship ties, and maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.	Match issue
S.8 Recognition & equality before the law	The right to equality gives people the right to enjoy Charter rights without discrimination and protection from discrimination.	Match issue



Charter issues

Please cut along dashed lines to create 7 issue slips



A group of students want to wear rainbow flag t-shirts celebrating LGBTI communities on a non-uniform day. Another student objects and says if they're allowed to do that, they will wear a t-shirt with a swastika on it.

The school supports an Aboriginal student to participate in cultural ceremonies with their family and to spend class time with her Auntie learning language, by providing help to catch up with school work missed. The school also invites the student's Auntie to give the whole class a language lesson.

A five-year-old Sikh boy was told by a school that they would not admit him as a student if he wore his patka at school because it was not consistent with the school uniform.

A notification to Child Protection is made by a teacher on the basis that they are concerned that a child is being harmed in their family environment.

A condition of attendance at camp for a student who exhibits behaviours which are a manifestation of a disability is that their parent comes with them.

A student is told to stand in the corner of the classroom with their back turned to the wall.

Information about a surgical procedure being undertaken by a student who is transitioning gender, is given to a group of parents because they express concern for the student.

Charter right	Charter definition	Charter issue
S.10 Protection from torture & cruel, inhuman or degrading treatment	A person must not be tortured, or treated in a way that is cruel, inhuman or degrading. This includes protection from treatment that humiliates a person. A person must not be subjected to medical or scientific experimentation or treatment without their full, free and informed consent.	A student is told to stand in the corner of the classroom with their back turned to the wall.
S.13 Privacy & reputation	People have a right to be free from unlawful or arbitrary interference with personal privacy, their bodies, family, home or correspondence.	Information about a surgical procedure being undertaken by a student who is transitioning gender, is given to a group of parents because they express concern for the student.
S.14 Freedom of thought, conscience, religion and belief	Every person has the right to have or to adopt a religion or belief of his or her choice and the freedom to demonstrate that religion or belief	A five-year-old Sikh boy was told by a school that they would not admit him as a student if he wore his patka at school because it was not consistent with the school uniform
S.15 Freedom of expression	People have the right to hold opinions without interference. People have the right to seek, receive and pass on information and ideas through any medium, including through verbal communication, writing, print, art, and sign language. Freedom of expression can be lawfully limited in order to respect others' rights and maintain public safety.	A group of students want to wear rainbow flag t-shirts celebrating LGBTI communities on a non-uniform day. Another student objects and says if they're allowed to do that, they will wear a t-shirt with a swastika on it.
S.17 Protection of families & children	Families are entitled to protection and children have the right to protection according to their best interests.	A notification to Child Protection is made by a teacher on the basis that they are concerned that a child is being harmed in their family environment.
S.19 Aboriginal cultural rights	Aboriginal people hold distinct cultural rights to enjoy their identity and culture, maintain and use their language and kinship ties, and maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.	The school supports an Aboriginal student to participate in cultural ceremonies with their family and to spend class time with her Auntie learning language, by providing help to catch up with school work missed. The school also invites the student's Auntie to give the whole class a language lesson.
S.8 Recognition & equality before the law	The right to equality gives people the right to enjoy Charter rights without discrimination and protection from discrimination.	A condition of attendance at camp for a student who exhibits behaviours which are a manifestation of a disability is that their parent comes with them.

Notes to assist the activity leader to facilitate discussion

Once everyone has completed the activity and been given the answer sheets there may be some discussion about how participants experienced the activity, how easy / difficult it was to identify rights, and if participants ordered the rights according to the answer sheet.

It's important to reiterate that the answer sheet is only a guide as to which is the most relevant right. In any given scenario there are usually a few rights that might be relevant. All relevant rights need to

be properly considered in the course of making decisions in order to be compliant with obligations in the Charter.

The point of the exercise is merely to have an opportunity to practice identifying relevant rights as one of the first steps in the decision-making process.

Below is a version of the activity which includes notes next to each scenario to assist the facilitator with a post activity discussion.



Charter right	Charter definition	Charter issue	Facilitators notes
S.10 Protection from torture & cruel, inhuman or degrading treatment	A person must not be tortured, or treated in a way that is cruel, inhuman or degrading. This includes protection from treatment that humiliates a person. A person must not be subjected to medical or scientific experimentation or treatment without their full, free and informed consent.	A student is told to stand in the corner of the classroom with their back turned to the wall.	<p>This right may be engaged, not just when there has been physical harm, but if there is treatment that humiliates, shames or debases someone.</p> <p>While this is not specifically an example of restraint and seclusion, this right is sometimes raised in situations where restraint and seclusion practices have been used.</p> <p>See: Resources to support schools reduce and eliminate restraint and seclusion.</p> <p>https://www.education.vic.gov.au/school/teachers/behaviour/restraint/Pages/default.aspx</p>
S.13 Privacy & reputation	People have a right to be free from unlawful or arbitrary interference with personal privacy, their bodies, family, home or correspondence.	Information about a surgical procedure being undertaken by a student who is transitioning gender, is given to a group of parents because they express concern for the student.	<p>In order to protect people's dignity, this right is important to identify and consider when handing personal details about a student or their family.</p> <p>If non-staff are enquiring about a student's personal details, protecting the student's privacy is very important even if concern is expressed for the student. Details should only be shared with the student's permission, where possible, and only with the people who <u>need to know</u> in order to protect their safety and wellbeing. Only the information that is required to discharge duty of care or make reasonable adjustments should be shared, and not other irrelevant details.</p> <p>See School's Privacy Policy</p> <p>https://www.education.vic.gov.au/Pages/schoolsprivacypolicy.aspx</p>

Notes to assist the activity leader to facilitate discussion

Charter right	Charter definition	Charter issue	Facilitators notes
S.14 Freedom of thought, conscience, religion and belief	Every person has the right to have or to adopt a religion or belief of his or her choice and the freedom to demonstrate that religion or belief	A five-year-old Sikh boy was told by a school that they would not admit him as a student if he wore his patka at school because it was not consistent with the school uniform	<p>Public schools have an obligation to properly consider and act compatibly with student's right to freedom of religion under the Charter.</p> <p>This right is also protected under the Equal Opportunity Act and schools need to ensure they don't discriminate against any student because of their religion. A uniform policy needs to be flexibly applied in these circumstances in order to achieve equal outcomes. Note that there is a stark difference between headwear that connects a person to their religion and a sports cap or fashion accessory.</p> <p>See: Student dress code - Human Rights and Anti-discrimination requirement</p> <p>https://www.education.vic.gov.au/school/principals/spag/management/Pages/humanrights.aspx</p>
S.15 Freedom of expression	People have the right to hold opinions without interference. People have the right to seek, receive and pass on information and ideas through any medium, including through verbal communication, writing, print, art, and sign language. Freedom of expression can be lawfully limited in order to respect others' rights and maintain public safety.	A group of students want to wear rainbow flag t-shirts celebrating LGBTI communities on a non-uniform day. Another student objects and says if they're allowed to do that, they will wear a t-shirt with a swastika on it.	<p>Students have the right to freedom of expression.</p> <p>Freedom of expression can be lawfully limited where that expression is harmful or damaging to others. For example wearing a swastika is harmful and incites hatred and antisemitism, whereas a rainbow flag celebrates diversity and isn't harmful to others.</p> <p>A decision to not allow students to express racist, sexism or homophobic views can be justified in order to prevent discrimination and harm to others.</p>
S.17 Protection of families & children	Families are entitled to protection and children have the right to protection according to their best interests.	A notification to Child Protection is made by a teacher on the basis that they are concerned that a child is being harmed in their family environment.	<p>This right supports the work schools do to uphold their duty of care to keep children safe. Children have the right to have decision made in their best interests.</p> <p>Teachers registered to teach or who have permission to teach pursuant to the Education and Training Reform Act 2006 (Vic) and principals are mandatory reporters in Mandatory reporters must make a report to the Department of Health and Human Services (DHHS) (Child Protection) as soon as practicable if, in the course of practising their profession or carrying out their duties, they form reasonable belief that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child from that abuse. Victoria.</p> <p>See: Child Protection - Reporting Obligations https://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotectobligation.aspx</p>
S.19 Aboriginal cultural rights	Aboriginal people hold distinct cultural rights to enjoy their identity and culture, maintain and use their language and kinship ties, and maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.	The school supports an Aboriginal student to participate in cultural ceremonies with their family and to spend class time with her Auntie learning language, by providing help to catch up with school work missed. The school also invites the student's Auntie to give the whole class a language lesson.	<p>The Charter recognises that human rights have a special importance for the Aboriginal people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with their traditional lands and waters.</p> <p>The Marung Aboriginal plan VISION is that:</p> <p>Victoria will be a State where the rich and thriving culture, knowledge and experience of our First Nations peoples are celebrated by all Victorians; where our universal service systems are inclusive, responsive and respectful of Koorie people at every stage of their learning and development journey; and where every Koorie person achieves their potential, succeeds in life, and feels strong in their cultural identity.</p> <p>See: https://www.education.vic.gov.au/about/programs/Pages/marrung.aspx</p>
S.8 Recognition & equality before the law	The right to equality gives people the right to enjoy Charter rights without discrimination and protection from discrimination.	A condition of attendance at camp for a student who exhibits behaviours which are a manifestation of a disability is that their parent comes with them.	<p>Imposing a condition or requirement that parents and carers must accompany a student in order that they be allowed to attend camp could amount to indirect discrimination under the Equal Opportunity Act 2010 (Vic) (EOA) (i.e. the imposition of an unreasonable requirement, condition or practice that disadvantages the student because of their disabilities), limiting or interfering with the right to equality. But this does not apply to a situation where parents and carers volunteer to attend, or when the school invites them to attend and they are happy to go (as long as their attendance is not a condition of the student's attendance at camp).</p> <p>See: Students with a Disability</p> <p>https://www.education.vic.gov.au/school/principals/spag/participation/Pages/studentwithdisability.aspx</p>