

Atheism is a Creed Deserving of Human Rights Protection

In the recent decision of *R.C. v. District School Board of Niagara* released on August 13, 2013, the Human Rights Tribunal of Ontario recognized atheism as a creed protected by Ontario's *Human Rights Code*.

In the application, the father of a Niagara School Board student challenged the Board's longstanding policy which permitted the distribution of Gideon Bibles in schools, but not other texts. The policy came to light when the student's father attempted and failed to have his child's school distribute a text entitled "Just Pretend", a book which promotes atheism and compares God to Santa Claus. The school's rationale in rejecting the father's request was that atheism is not a religion and that "Just Pretend" was a secondary text rather than a universally-recognized sacred text, such as the Bible.

The Tribunal disagreed with the School Board. Relying on Supreme Court of Canada cases regarding religious freedom, the Tribunal noted that the prohibition on discriminating based on 'creed' includes the protection of atheists and other non-believers. Interestingly, the Tribunal illustrated the dangers of discriminating against atheists by using an example in the employment context:

If an employer decided to dismiss all employees who did not share the religious faith of the president of the company, those who belonged to other religions would have a [discrimination] claim, but not those who are atheist, agnostic or who do not have a view on religion. It would allow... an employer to enforce particular views and practices on those with atheist views or no clear views about such matters, but not on those who actively believe in different religion.

Ultimately, the Tribunal ordered the Board to develop a policy that encourages diversity in the literature it permits to be distributed on religion (or a lack thereof).

The decision in *R.C. v. District School Board of Niagara* serves as a great reminder for employers to exercise caution when approaching matters of religion and creed in the workplace, and to understand its very broad applicability. Please call e2r Solutions® if you have any questions or concerns about the treatment of religion or creed in your organization.