

Interjurisdictional NDA Reform Comparison

	US (California)	Canada (PEI)	US (Federal)	Canada (Ontario)	Ireland	US (Washington)	Australia (Victoria)	Canada (Federal)	United Kingdom
Passed	January 2019 Amended October 2021	May 2022	September 2022	December 2022	October 2024	January 2025	November 2025	<i>Proposed</i>	<i>Proposed</i>
Form	Amendment to the <i>Code of Civil Procedure</i> and the <i>Government Code</i> . Government amendments below in blue.	Stand-alone Act.	Stand-alone Act.	Amends various Acts in relation to post-secondary education.	Amendment to the <i>Employment Equality Act</i> .	Stand-alone Act, which is incorporated into the Revised Code of Washington.	Stand-alone Act.	Amends the <i>Financial Administration Act</i> and the <i>Parliament of Canada Act</i> .	Stand-alone bill.
Application	Prohibits an NDA which prevents the disclosure of factual information related to a civil claim or administrative complaint based on sex or relating to discrimination, harassment and sexual harassment in the workplace or by the owner of a housing accommodation. Only applies where the complaint has been filed, thus NDAs are permitted prior.	Allegations of discrimination and sexual harassment in protected areas of life including employment, volunteering, publications, accommodation .	Disputes involving sexual assault and sexual harassment.	Prevents the use of non-disclosure terms by universities and other post-secondary academic institutions in relation to any allegations or complaints made against an employee of an institution regarding sexual misconduct.	Allegations of harassment and sexual harassment. Applies only to employment settings.	Prevents the use of non-disclosure terms by employers relating to conduct that the employee reasonably believed was discrimination, sexual assault, harassment, retaliation, wage or hour violation.	Restricts the use of NDAs in workplace sexual harassment matters that are connected to Victoria.	Requires certain public federal officials to prevent public money being used to pay settlements in harassment matters where NDA clauses are used or to litigate a breach of an NDA.	Allegations of bullying harassment or discrimination .
Operative provision	Prohibits NDAs within harassment complaint	Onus on employer	Prevents judicial enforceability of pre-	voids any term in an agreement that prohibits	Onus on employer	Prevents employer from requesting or enforcing an NDA.	Makes non compliant NDAs not enforceable	Prevents a government department, departmental	Onus on employer, makes non-compliant

	settlement agreements. Onus on government employer not to require an employee to sign an NDA relating to unlawful acts as a condition of employment or as part of an employment separation agreement.	voids non-compliant NDAs.	dispute NDAs.	the disclosure of sexual misconduct by an employee of an academic institution towards a student of the institution.	voids non-compliant NDAs.		against a complainant to the extent the agreement prevents the complainant from disclosing information about workplace sexual harassment. Prevents NDA terms relating to sexual harassment in employment contracts.	corporation or the Crown corporation from entering into a NDA.	NDAs unenforceable.
Pre Conditions									
Request by the complainant	NDAs which shield the identity of the complainant, and facts which would reveal identity, are permitted when requested by the complainant (unless the government is party to the agreement as NDAs cannot be used where a government agency or public official is a party to the agreement).	Only permitted where an NDA is the expressed wish and preference of complainant.	Not included.	An institution may use a term prohibiting disclosure at the request of the student, as long as certain requirements are met.	An employer may enter into an NDA where requested by the employee.	Not included.	Only permitted where an NDA is the express wish and preference of the complainant.	A government body subject to the Act can only enter into an NDA where the complainant makes a written request.	Only permitted where an NDA is the expressed wish and preference of the complainant.
Independent legal advice	Not included.	Complainant must have a reasonable opportunity to	Not included.	The student must have a reasonable opportunity to	An employer may enter into an NDA where the	Not included.	Information statement must be provided to	The complainant must have had the opportunity to obtain	Complainant must have a reasonable opportunity

Permitted disclosures	Not included.	NDAs cannot prohibit disclosure required by law, artistic expression, investigative authorities, legal or medical practitioner, social worker, community elder, ombudsman, friend or family member – and communication with a prospective employer.	Not applicable.	Where an agreement contains a term prohibiting disclosure at the request of the student, there must also be terms allowing the student to waive their own confidentiality in the future and a process for doing so.	NDAs cannot prohibit disclosure to Police, legal or medical practitioners, mental health professionals, ombudsman, trade union, revenue commissioner or persons specified in the agreement.	Not applicable.	NDAs cannot prohibit disclosures to government bodies, legal professionals, employer or prospective employer, friend or family, a mental health and wellbeing professional, anti-corruption commission or minister of religion, among others.	Permitted disclosures are allowed in a range of circumstances, including for artistic expression by the complainant, or any communication between the complainant and a lawyer, medical practitioner, social worker or any friends and family.	Not included.
Scope and duration	Provisions preventing disclosure of settlement amount are permitted. Provisions preventing disclosure amount paid in severance agreement are permitted.	Must include chance for complainant to waive their confidentiality in future. Must be of a set and limited duration. NDA must not adversely affect the health and safety of a third party or the public interest	Not applicable.	Where an agreement contains a term prohibiting disclosure at the request of the student, the agreement must be of a set and limited duration.	Must be of unlimited duration, unless the employee chooses otherwise.	Does not apply to non-disclosure of compensation amount. No limits on duration.	Complainant may terminate an NDA where it prevents disclosure of information about workplace sexual harassment. The NDA may be terminated on the first anniversary of the agreement or any time after.	Not included.	Must include chance for the complainant to waive their confidentiality in future. Must be of a set and limited duration. NDA must not adversely affect the health and safety of a third party or the public interest.
Cooling off period	Not included.	NDA must include opportunity for the complainant to waive their confidentiality in future.	Not applicable.	Not applicable.	Employee has the right to withdraw within 14 days of agreement.	Not applicable.	Complainant may request a review period of 21 days or waive it.	Not included.	Not included.
Non disparagement	Non disparagement clauses cannot	Applies to non disparagement clauses which	Non disparagement clauses	Not included.	Not included.	Applies to non-disparagement.	Applies to non-disparagement.	Non-disparagement clauses are	Not included.

	prevent government employees from disclosing unlawful conduct.	have the effect of concealing details of the allegation of harassment or discrimination.	are not judicially enforceable where the conduct that is the subject of the dispute is alleged to have violated Federal, State or Tribal law.					included in the definition of a non-disclosure agreement.	
Retroactivity	Not included.	Invalidates existing NDAs only so far as they relate to permitted disclosures.	The Act only applies to claims filed after the date of enactment of the Act.	The Act only applies to agreements entered into after the date of enactment of the Act.	Not included.	Invalidates NDAs agreed to at the outset or during the course of employment – not to NDAs previously used to settle a legal claim.	Not included.	Not included.	Not included.
Drafting requirements	Not included.	In plain language.	Not applicable.	Not included.	In clear language, easily understood and accessible including by persons with a disability.	Not applicable.	Written in plain language.	Not included.	Written and in plain language.
Enforcement, reporting and compliance									
Civil or criminal penalty provision	Not included.	Respondent who enters into a non-compliant NDA is guilty of a summary offence and liable to pay a fine between \$2,000 and \$10,000.	Not included.	Not included.	Not included.	Employer in violation liable for actual or statutory damages of up to \$10,000 and legal fees.	Not included.	Not included.	Not included.
Enforcement mechanism	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.
Review	Not included.	Not included.	Not included.	Not included.	Minister must review	Not included.	Minister must review of	Parliament required to	Not included.

					effectiveness and operation of the amendment no later than 5 years from commencement.		operation of the Act after the 3 rd anniversary of the Act coming into effect.	undertake review of the Act every two years.	
Reporting obligations	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.	Not included.	NGOs receiving federal funding are required to report on their use of NDAs.	Not included.