

# How Non-Disclosure Agreements Silence the Victim of Abuse and Discrimination

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## What are non-disclosure agreements?

- A non-disclosure agreement (“NDA”) is a contractual agreement where one or more parties agree not to disclose any material or knowledge related to the settlement (designated as “confidential”) to any third parties
- An NDA is indefinite, for ever
- An NDA is typically a reciprocal agreement or an “exchange transaction” which requires the victim to promise silence in order to protect their own privacy

# Joining forces with Zelda Perkins



# Can't Buy My Silence campaign goals

Increasing public awareness of  
NDAs

2. A safe platform for victims to  
speak

3. Voluntary pledges and  
resolutions

4. Legislative reform

# CBMS/ Speak Out Revolution data

- **Survey n = 1,400**
- ❖ 25% report signing an NDA and a further 11% say they “cannot say for legal reasons” (ie they have signed an NDA), totaling more than one third (this is consistent with US studies showing 1 in 3 US workers have signed an NDA)
- ❖ Black women report having signed an NDA (75%) at three times the rate of compared to their White counterparts (28%). They report signing NDAs at the highest rate of any ethnicity.
- ❖ Almost five times as many women report signing NDAs as men
- ❖ 31% say they did not make a formal complaint because they anticipated being asked to sign an NDA, and did not want to
- **100 plus personal testimonies**

# How do NDAs affect settlement?

- Reference point: data on sexual harassment cases filed and resolved at the US federal EEOC
- In 2017, before there was any US NDA legislation, the settlement rate at the EEOC was **81%**.
- After 9 states (representing approximately 7% of the total US population and approximately 18% of the nationwide EEOC sexual harassment claims in 2022) had passed legislation forbidding NDAs for sexual harassment disputes by 2022, **there was a settlement rate** (merit resolutions as above) of **92.1%**

# Major Canadian developments 2021-24

**April 2022:** Nova Scotia's [Non-Disclosure Agreements Act](#) gets its first reading

**May 2022:** PEI's [Non-Disclosure Agreements Act](#) the first of its kind in the country, comes into force

**June 2022:** The National Union of Public and General Employees (NUPGE) becomes the first national union to resolve to ban NDAs in cases of workplace sexual harassment

**November 2022: Manitoba. Committee Stage .** Parliamentarians hold a committee hearing where more than 20 members of the public testify about their NDAs

**December 2022:** Ontario Government amends the Strengthening Post-Secondary Education Bill to prohibit the use of NDAs to cover up faculty/student sexual misconduct

**February 2023:** A Canadian Bar Association resolution [AGM resolution](#) discouraging members from using NDAs in cases of abuse, discrimination and harassment passes by 94 percent.

**March 2023:** British Columbia's Non-Disclosure Act first reading (Green Party)

**May 2023:** Senator Marilou McdPhedran tables federal legislation which would bar federally funded agencies from using federal dollars to fund or enforce NDAs in cases of harassment and discrimination

**June 2023:** Ontario NDA Bill tabled by Ontario MPP and NDP Justice Critic Kristyn Wong-Tam, gets its first reading

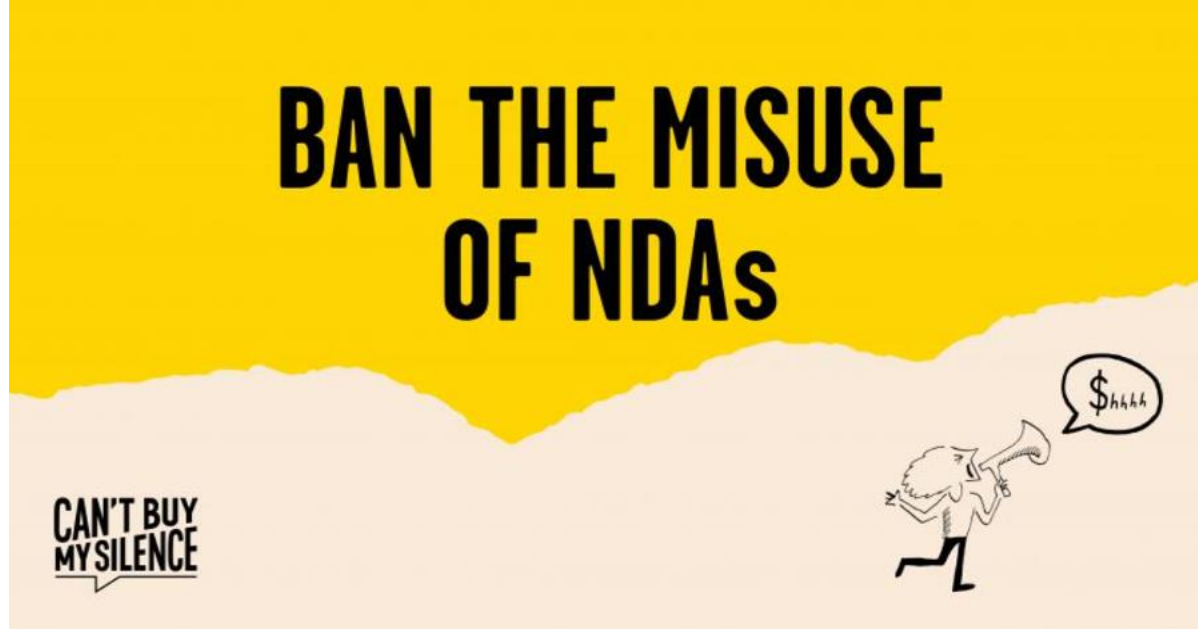
**November 2023:** Ontario Labour Minister David Piccini announces the province will begin consultations on non-disclosure agreements.

**November 2023:** Saskatchewan Opposition Justice Critic Nicole Sarauer introduces a Bill to amend various aspects of workers rights, including restricting NDAs

# The University Pledge campaign

**“We commit to not using Non-Disclosure Agreements to silence people who come forward to raise complaints of sexual harassment, discrimination, abuse or misconduct, or other forms of harassment and bullying.”**





# Can't Buy My Silence

[cantbuymysilence.com](http://cantbuymysilence.com)

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