

Know Your Rights

Education in Nova Scotia



A project of the Legal Information Society of Nova Scotia (LISNS) in partnership with the Canadian National Institute for the Blind (CNIB) Foundation

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Education in Nova Scotia

My legal rights

Nova Scotia law provides people with sight loss with many important legal rights regarding education:

- You have the right to access education, free from barriers or limits;
- You have the right to receive special needs educational programming and services;
- You have the right to receive accommodations from educational institutions regarding your disability, up to the point of undue hardship; and,
- You have the right to use a guide dog in educational institutions.

Duty to Accommodate and Undue Hardship

Physical disabilities, including blindness, are protected under the Nova Scotia **Human Rights Act**. Consequently, educational institutions have a legal duty to accommodate individuals with needs related to their disability. In other words, educational institutions must provide you with the support you need to receive an education that is equal to your peers. However, this duty extends only up until the point of undue hardship.

Undue hardship is a legal concept referring to the point at which an institution has accommodated you as much as is reasonably possible and does not have to accommodate you any further. The point of undue hardship is determined by the courts or human rights tribunals.

It is difficult to demonstrate that accommodations would result in undue hardship. To establish this, the educational institution would have to prove that providing accommodations would:

- Be impossible;
- Create serious health or safety risks; or
- Be so costly as to significantly interfere with the educational institution's ability to operate.

In each case, the educational institution would have to prove that they had considered all reasonable alternatives to accommodate you.

The rights of parents or guardians

Teachers and school boards have the legal duty to devise educational program plans that cater to your child's particular needs. Parents of students with a disability have the opportunity to participate in developing their child's individualized educational program, together with the educational facility. Parents may also file an appeal with the Regional Centre for Education if they do not find their child's educational program suitable for their needs, and attempts to resolve the matter with the school have been unsuccessful.

Q: Where do My Legal Rights Come From?

A: Your rights relating to education come from a variety of laws and have been decided by various courts, tribunals and boards.

- The Nova Scotia **Human Rights Act** is the main source of your legal rights against discrimination from educational institutions.
- The **Accessibility Act** requires the prevention and removal of barriers that people with disabilities may experience when trying to access education, among other factors.
- The **Blind Persons' Rights Act** authorizes police to lay charges in circumstances where people are denied access to services or facilities (including educational institutions) because they are accompanied by a guide dog. The **Service Dog Act** also protects against discrimination based on the use of a service dog.
- The **Education (CSAP) Act** governs the administration of Acadian and French language public schools, and the **Education Act** governs the administration of English language public schools. These Acts also identify the rights of parents of students with special needs, and the duty of teachers and school boards to cater education plans to these students' particular needs.

A note on private schools

- The **Education Act** and the **Education (CSAP) Act** require that private schools meet health, safety, building, and certain educational standards.
- Nova Scotia's **Human Rights Act** applies to private schools and prohibits discrimination based on physical disability.

Q: Who must comply with Nova Scotia laws regarding education?

Students, parents, faculty, daycares and preschools, elementary and high schools, regional centres and school boards, post-secondary educational institutions, and the Nova Scotia government are all required to comply with laws regarding education.

Q: What Can I Do to Enforce My Legal Rights?

If you or your child is discriminated against by an educational institution, there are several options available to you.

A preliminary option is to try and self-advocate, which means resolving your concerns informally, and collaboratively. This may involve speaking with those directly involved or getting support from others.

Sometimes, self-advocacy is not enough. In these cases, you may wish to consult a lawyer who practices human rights, discrimination, or education law to see whether the following options are appropriate:

- A complaint to the **Nova Scotia Human Rights Commission**. You can **contact** the Nova Scotia Human Rights Commission or visit its **Complaint Self-Assessment** page to get a better sense of whether your experience falls within the purview of the **Human Rights Act**. If your issue falls within the purview of the Human Rights Act, commission staff can help you file a complaint. Generally, you must make a complaint within twelve months of the incident. See the **Human Rights Guide for more information**.
- Filing a complaint with a private career college or school administration supervisor directly
- Filing a complaint with the Department of Labour and Advanced Education
- Making a **complaint** to the **Nova Scotia Office of the Ombudsman**.

Common scenarios

Although many laws provide protection from discrimination, individuals living with disabilities continue to face challenges in receiving an equal standard of education. This section will address common problems one might face regarding to accessing education and suggests ways to tackle them in formal and informal ways.

Elementary and secondary school

Q: My child is starting school. What can I do to ensure their sight loss is accommodated?

Children in Nova Scotia have the legal right to access education free from unreasonable barriers or limitations. Consequently, your child's Regional Centre for Education is legally obligated to accommodate your child's needs up to the point of undue hardship.

Planning ahead and the school's Duty to Accommodate

School faculty and staff have a legal duty to accommodate your child's needs. Providing the school with information about your child's specific disability and needs is key to ensuring that sufficient accommodation is provided. Maintaining a relationship with the Regional Centre for Education is key to ensuring your child's needs are met throughout his or her education.

Examples of accommodations include:

- Receiving school materials in an accessible format;
- Font and text sizes;
- Colour vs black and white;
- Use of a guide dog;
- Assistance with note-taking;
- Curriculum modifications;
- Assistive technology; and,
- Tutoring.

Promoting self-advocacy

It is important to encourage your child to self-advocate by communicating with you and their teachers if they face difficulties because of their disability. Keeping an open line of communication will facilitate the adjustment of the school's accommodations based on your child's changing needs throughout their education.

Q: The Regional Centre for Education implemented an accommodation plan to support my child's sight loss, but I don't agree with their approach. What can I do?

Accommodation will not always be perfect. There is no one-size-fits-all when it comes to accommodating various needs. However, by maintaining a collaborative relationship with the school, your input and concerns regarding your child's educational process can be better integrated and adjusted.

Problems with a Regional Centre for Education's accommodation plan can be raised with your child's teacher or principal, and alternatively, directly with the Regional Centre for Education or superintendent. If this approach does not address your concerns, you can find additional options in the section of this handbook, titled [What can I do to enforce my legal rights?](#) You can also contact [Atlantic Provinces Special Education Authority \(APSEA\)](#) for additional support.

It's important to keep in mind that schools must only accommodate up until the point of undue hardship. If there are extreme costs to any further accommodation, a Regional Centre for Education may not be required to accommodate any further. As a parent, you also have a legal duty to facilitate the implementation of a school's accommodation plans, so long as they are reasonable.

Post-secondary education

Q: I've been accepted to a post-secondary institution, but am uncertain about what steps I need to take to have my sight loss accommodated.

College and university students are typically expected to be more independent than high school or elementary school students. It is important to be proactive by letting your post-secondary institution know about your disability before beginning your classes. Your post-secondary institution may have an accessibility office that you can contact.

You can also contact Nova Scotia [Post-Secondary Accessibility Services](#), which helps provide access to disability-related resources relating to education.

Once you have informed your post-secondary institution of your needs, their legal duty to accommodate you up until the point of undue hardship is initiated.

As a post-secondary student, it is important to be able to self-advocate. Informing your post-secondary institution of your exact needs, and helping to facilitate reasonable efforts at the accommodation, are vital. For example, you may want to request class materials in an accessible format. Letting your professors know your requests in advance will help ensure that your needs are met in a timely manner.

You may also find it helpful to review your school's human rights and accessibility policies. In some circumstances, there may be accessibility policies that are specific to your program as well.

A note about financing post-secondary education

Students with disabilities may be eligible for government [grants](#). For example, the government offers funding for expenses like transportation, learning support services, and special materials. The government also grants students with disabilities more time to receive student assistance funding.

Q: Despite my requests, I haven't received the accommodations I require. What can I do?

Post-secondary institutions have a legal mandate under the Nova Scotia **Human Rights Act** to ensure you are afforded an equal opportunity to an education. This mandate requires postsecondary institutions to accommodate your needs up until the point of undue hardship.

Accommodations will not always be perfect, however, they must be the best reasonable alternative. It is your responsibility to assist in the development and implementation of reasonable accommodations. Building a relationship with professors and other faculty staff help ensure your educational needs are met.

If accommodations are not implemented within a timely fashion or are not meeting your needs, there are a variety of people you can connect with to resolve these issues. Contacting your professor, in person or by email, is a good place to start. Your school might also have an accessibility office that can address your concerns.

You may also want to contact the department head or the human resources department.

If this approach does not address your concerns, you can find additional options in the section of this handbook, titled **What can I do to enforce my legal rights?**