

Self-Advocacy & Essential Legal Information

CNIB Know Your Rights

Last Reviewed on September 2019



Disclaimer

This content is provided as general information and is not legal advice. If you need advice about a specific legal problem, contact a lawyer or a community legal clinic.

Acknowledgements

Thank you to the many volunteers and institutional collaborators who contributed to developing this legal information handbook. To learn more about the Know Your Rights project, please visit us [online](#).

Thank you to the [Law Foundation of Ontario](#) for making the Know Your Rights project possible. While financially supported by The Law Foundation of Ontario, the CNIB is solely responsible for all content.



Contents

1 Self-Advocacy	5
1.1 What is Self-Advocacy?	5
1.2 What makes “Legal” Advocacy Different?	6
1.3 What are “Legal Services”?	6
1.4 Legal Life Skills	8
1.5 Top Five Misconceptions about Legal Advocacy	9
1. Legal advocacy means taking someone to court or to a tribunal	9
2. Legal advocacy means getting into a dispute	9
3. Legal advocacy means being vocal and assertive about my legal rights	10
4. You only need legal help <i>after</i> you get into a dispute	11
5. It is easy to know when you have a legal problem	11
2 Getting Legal Help	13
2.1 What Kind of Legal Help do I Need?	13
“Legal Information” vs. “Legal Advice”	13
Types of Legal Help	14
2.2 Find Reliable Legal Information	16
2.3 Find a Lawyer or Paralegal	17
When to look for a lawyer or paralegal	17
Before you meet with a lawyer	17
How to find a lawyer or paralegal	18
2.4 Connect with Community Support	19
How CNIB can help	20
3 Essential Legal Information	21
3.1 Key Players in the Legal System	21
3.2 Key Legislation	22
Ontario’s Human Rights Code (the “Code”)	22
The Accessibility for Ontarians with Disabilities Act (the “AODA”)	25
3.3 Other Important Legislation	28
Blind Persons Rights Act	28
Municipal By-laws	29

The Charter of Rights and Freedoms	29
Other Federal & Provincial Laws	30
4 Appendix.....	30
Free Legal Advice, Hotlines, & Community Clinics.....	30

1 Self-Advocacy

1.1 What is Self-Advocacy?

“**Advocacy**” means persuading others to change their attitudes, positions, or practices related to an issue that you care about. Advocacy can have a range of goals, such as raising public awareness, getting a company to change a business practice, or creating a new law.

“**Self-Advocacy**” means persuading others to change their attitudes, positions, or practices related to a situation that you are personally involved in. The goal of self-advocacy is to improve your situation or to make sure you are being treated fairly.

Self-advocacy does **not** mean doing advocacy by yourself. If you are in a challenging situation, it’s likely that many people have experienced similar situations before and gained valuable knowledge and experience that could help you. You may be surprised to learn about the many resources, programs, and organizations that can help people in your situation.

In addition, there are many excellent educational resources to help you develop advocacy skills. Important advocacy skills include:

- Defining the problems;
- Identifying your goals;
- Creating an advocacy plan/strategy;
- Writing effective emails; and
- Speaking comfortably/persuasively with people you may disagree with.

CNIB Foundation Ontario has [training materials](#) that can help you become a more effective advocate.

1.2 What makes “Legal” Advocacy Different?

By “**legal advocacy**” we mean any kind of advocacy **where it’s useful or important to have a very good understanding of the law**. For example, you may need either:

- General information about what the law says or how the legal system works; or
- A detailed explanation about how the law applies to your specific situation and what legal actions you can take.

Legal advocacy is different than other kinds of advocacy in **one critical way**: since the law can be a very difficult and complex subject, **you are going to need help** finding general information about the law and accessing legal service providers.

People who you trust – like friends, family members, community workers, or non-profit organizations – can help you find **general information about the law**. They can also help you apply “legal life skills” to your personal situation (described further [below](#)) and connect with legal service providers.

Only lawyers or paralegals who are licenced by the Law Society can provide you with **legal services**. Note that it is **illegal** for anyone else to provide legal services in Ontario.

Paralegals provide legal services in a more limited way than lawyers and only in a few areas of the law. You can learn more about the type of work paralegals do [at this webpage](#) from the Law Society of Ontario.

1.3 What are “Legal Services”?

Since the average person in Ontario has had **few if any** interactions with a lawyer, most people are not familiar with the services that lawyers provide: “**legal advice**” and “**legal representation**”.

To explain the value of these legal services, we’ll make an analogy between doctors and lawyers. This analogy has proven useful because the average person has had many interactions with a doctor and is very familiar with the services that doctors provide.

We all know that doctors go through years of specialized training so they can provide medical services such as: conducting physical exams and check-ups, making a medical diagnosis, prescribing medication and performing medical procedures. If a doctor makes a mistake, it's clear how a patient could be put in danger. As a result, it's easy to understand why **only** qualified and licenced doctors can provide certain medical services in Ontario.

For the same reason, **only** qualified and licenced lawyers can provide legal services in Ontario: it takes years of specialized training to learn how to provide these services **safely**.

The table below defines each type of legal service and makes an analogy to a medical service that has a similar function. This analogy helps to show how:

- Just like medical services protect your health, legal services protect your legal rights; and
- Just as it's very dangerous if medical services are provided incorrectly, your legal problem can get much worse if legal services are provided incorrectly.

Description of a Legal Service	Analogy to a Medical Service
A lawyer applies the law to a client's specific situation to determine what legal rights and duties that client has (called " providing legal advice ").	A doctor does a detailed physical examination of a patient to determine what medical conditions that patient has.
After applying the law to a client's situation, a lawyer recommends what legal actions the client can take to achieve their goals (also called " providing legal advice ").	After making a medical diagnosis for a patient, a doctor recommends what treatment options are available to improve that patient's health – for example, prescribing medication.
A lawyer serves as a client's legal representative to help the client achieve their goals – for example, by writing letters, submitting applications, or going	A doctor performs a specific medical procedure on a patient to improve that patient's health – for example, doing surgery.

to court on their client’s behalf (also called “ providing legal representation ”).	
--	--

1.4 Legal Life Skills

The following skills are very important when you are dealing with a potential legal problem:

- Getting things in writing;
- Keeping detailed records;
- Collecting and organizing documents;
- Writing down a clear timeline of events; and
- Prioritizing relevant information.

We call these “**legal life skills**” because they are essential to **enabling** effective legal advocacy.

Community Legal Education Ontario has created excellent educational resources to help you learn about and develop legal life skills.
--

Applying these kinds of skills to your personal situation can be hard work, stressful, and emotionally draining. You should always consider reaching out to people who you trust – like friends, family members, community workers, or staff at a non-profit organization – to ask for help.
--

Legal life skills are especially important at the **early stages** of self-advocacy: when you are starting to think that something about your current situation is wrong or unfair. For example, keeping detailed records can help you reflect on your situation and writing down a clear timeline can help you communicate effectively with others. By using these skills, you will be in a better position to resolve potential problems before they can get bigger.

Finally, you should apply these skills as much as possible **before** meeting with a lawyer. Since lawyers are so expensive, it’s important make the most out of your meetings by preparing in

advance as much as possible. We provide more information on how to prepare for a meeting with a lawyer in the [next section](#).

1.5 Top Five Misconceptions about Legal Advocacy

1. Legal advocacy means taking someone to court or to a tribunal

While legal advocacy **can** involve taking someone to a court or tribunal, **the large majority of legal problems never go to adjudication.**

The term “**adjudication**” means going in front of a judge to resolve a dispute between two parties.

Adjudication can be a very expensive and time-consuming process which can last many months or even years. As a result, most legal disputes get resolved at a much earlier stage. Unlike TV shows, most legal advocacy is done outside of a court room.

That said, sometimes adjudication is the best option for correcting unfairness and winning a court case can have a large positive impact on people who are in similar situations.

2. Legal advocacy means getting into a dispute

While legal advocacy **can** involve getting into dispute, **not all legal advocacy is adversarial.**

The term “**adversarial**” means “having a conflict where two sides oppose each other”.

In fact, **important and impactful legal advocacy is often non-adversarial** where parties work together to solve a problem or disagreement.

When dealing with a potential legal issue, a good approach is to start a collaborative discussion with the other party and then gradually become more adversarial as needed. For example, here is an approach we often suggest:

Step 1: Do your best to understand the other party’s concerns and try to work together towards a solution in a collaborative way.

Step 2: Be more formal and direct with the other party: make sure to get things in writing and use stronger language to express your disagreement or your desire for a specific solution. In addition, explore dispute resolution options that are not fully adversarial.

For example, “**mediation**” is a dispute resolution process where a neutral third party helps two opposing sides share information and encourages them to work together towards a solution.

Step 3: Explore adversarial options like filing a lawsuit. However, keep in mind that most lawsuits never go to court and instead get resolved by parties working together to arrive at a settlement.

This approach is **very general** and does not apply to all types of problems. You should always seek out help when dealing with a legal problem.

3. Legal advocacy means being vocal and assertive about my legal rights

While good legal advocacy **can** involve being vocal and assertive about your legal rights, there are good reasons why this shouldn't be your **very first** response:

- Many potential problems arise out of ignorance or a lack of education. Educating the other party about the law is often an efficient way to resolve a problem that could otherwise grow into a large dispute. However, if you start your discussions with the other party by strongly asserting your legal rights, they will likely feel intimidated or get defensive which can shut down communication. As a result, even if you are 100% correct about your legal rights, it could now take much more time and effort to get the outcome that you want.
- It is often very useful to collect information from the other party to better understand their views and come up with a good advocacy plan in response.

For example, if you are requesting an accommodation from a service provider and they tell you that “it's not possible”, it would be very useful to know **why** they think it's not possible. Do they think that the cost is too high? If so, do they have a reasonable estimate of the cost? Do they think it's a health and safety problem? Do they have a competing human rights claim? If you can get answers to questions like this, you can create a better advocacy plan.

Again, if you start your discussions with the other party by strongly asserting your legal rights, they will likely feel intimidated or get defensive. As a result, it could now take much more time and effort to get the outcome that you want.

4. You only need legal help *after* you get into a dispute

If possible, it's always better to get legal help **before** a potential legal problem grows into a full, adversarial dispute.

Ideally, you should get legal help at the **early stages** of self-advocacy: when you are starting to think that something about your current situation is wrong or unfair. To help explain why, we can make an analogy to your physical health:

If you are starting to feel unwell, you will likely try to learn more about your symptoms and try to figure out what medical condition you might have. If your symptoms get worse, you will surely want to see a doctor.

In the same way, if something about your situation seems unfair, you should first try to find some general information about your legal rights. If you think the situation may get worse, it is good idea to see a lawyer **before** you make any legal claims or take any legal actions. The purpose of seeing a lawyer is to get a good understanding of how the law applies to your specific situation. With this knowledge, you can create a much more effective advocacy plan.

5. It is easy to know when you have a legal problem

One of the main goals of this handbook is to explain that since the law can be a very difficult and complex subject, special knowledge and training is **required** to correctly apply the law to your specific situation.

While sometimes it is easy to know if you have a legal problem, in most cases it is **not** easy to know what specific legal problem you have and what actions to take to protect your legal rights. To make an analogy with medical care: while it may be easy to tell if someone is sick, only doctors have the knowledge and training to make an accurate diagnosis and recommend a good treatment plan.

Keep in mind that there are many cases where:

- People have a legal problem but don't even realize it. For example, they might think that a conflict with someone else is just a personal disagreement; or they might think it's normal to be denied accommodations in certain settings.
- People don't have a legal problem but think that they do.
- People have a legal problem but it's very different than what they think it is.

In sum, with legal advocacy, you will usually need help to access legal information or legal services.

2 Getting Legal Help

2.1 What Kind of Legal Help do I Need?

“Legal Information” vs. “Legal Advice”

When you are seeking legal help, it’s very important to know the difference between “legal information” and “legal advice.”

	What does it mean?	Who can provide it?
Legal Information	<p>A general explanation about how the law applies to a range of possible situations.</p> <p>Since a general explanation is not customized to your specific situation, it can’t tell you with certainty what specific legal rights you have or what legal actions you can take.</p>	<p>Anyone can create and share legal information – it’s essential for you to judge whether the information comes from a reliable and trustworthy source.</p>
Legal Advice	<p>A service provided by a licenced lawyer or paralegal who meets with you to learn about your specific situation and then:</p> <ul style="list-style-type: none">• Provides a detailed explanation about what specific legal rights and duties you have; and• Recommends what specific legal actions you can take to achieve your goals.	<p>Only a licensed lawyer or paralegal can provide legal advice – it is illegal for anyone else to provide legal advice in Ontario.</p>

An analogy between doctors and lawyers can help explain the difference between legal advice and legal information:

- Just as a lawyer provides their clients with legal advice, we can say that a doctor provides their patients with “medical advice.” When you visit a doctor’s office, they conduct a detailed physical examination to determine what **specific** medical conditions you have and to recommend **specific** treatment options.
- Going to see a licenced doctor is very different than reading a **general explanation** about a medical condition. For example, popular sources of general medical information include WebMD, Wikipedia, YouTube, and social media. Just like legal information, it’s essential for you to judge whether the source of information is **reliable and trustworthy**. For example, reliable sources of medical information include Public Health Ontario, the Public Health Agency of Canada, and MedlinePlus (a public education website run by the National Institutes of Health). Reliable sources of legal information are listed in Section [2.2](#).

If you need to learn more about the difference between legal information and legal advice, see [this resource](#) created by Community Legal Education Ontario.

Types of Legal Help

This section explains six kinds of legal help listed from the easiest to the most difficult to access.

1. Legal information

Legal information means a general explanation about how the law applies to a range of possible situations. Since anyone can create and share legal information, it’s important for you to judge whether information comes from a reliable and trustworthy source. Reliable sources of legal information are listed in Section [2.2](#).

2. Connect to Community Supports

Since the law can be a very difficult and complex subject, you will likely need help finding reliable legal information and accessing legal services. A good first step is to connect with community supports – for example, non-profit organizations, advocacy groups, or peer support groups. People in these organizations can help you develop an advocacy plan and connect with legal resources. For more information about community supports, see Section [2.4](#).

3. Referral to a Legal Professional

To access legal services, you need to find a legal professional who has relevant experience and who can provide services either free of charge or for a price that falls within your budget. It often takes a significant amount of work to find a specific legal clinic, law firm, or individual lawyer/paralegal who meet both these criteria.

It's important to ask for recommendation or referrals to specific lawyers/paralegals from friends, community supports, and other legal professionals. You may need to follow up with multiple referrals before you find a lawyer or paralegal that you are able to work with.

Section [2.3](#) provides more information on how to find a lawyer or paralegal.

4. Summary Legal Advice

“Summary legal advice” means a short consultation with a lawyer, usually limited to 30 minutes. During this time, a lawyer will listen to your problems, provide you with legal advice, and may also refer you to other legal services. After this short consultation, there is no ongoing commitment for that lawyer to provide you with legal advice.

If seeing a lawyer is like seeing a doctor, then getting summary legal advice is like “going to a walk-in clinic”. When you go to a walk-in clinic, a doctor meets with you for a short time and then provides you with a diagnosis and treatment options or a referral to other medical services. After this short consultation, there is no ongoing commitment for that doctor to provide you with medical care.

Most [free legal services](#) will only provide you with summary legal advice unless you meet certain eligibility criteria.

5. Legal Advice

Legal advice is a service that can only be provided by a licenced lawyer or paralegal. The lawyer or paralegal meets with you to learn about your **specific situation** and then:

- Provides a detailed explanation about what **specific** legal rights and duties you have; and
- Recommends what **specific** legal actions you can take to achieve your goals.

Legal advice is often provided as an ongoing service until your problem is resolved or until you have used up your budget for legal services. Section [2.3](#) explains how you can make the most of your time with a lawyer or paralegal.

6. Legal Advice & Legal Representation

In addition to providing legal advice, a lawyer or paralegal can also represent you – for example, by writing letters to other parties on your behalf, submitting applications for you, or serving as your legal representative in court.

2.2 Find Reliable Legal Information

When you search for legal information, it's up to you judge whether the source is trustworthy and reliable. At minimum, you should make sure that the legal information you trust:

- Applies to Ontario;
- Was published within the last few years (or sooner if the law has changed);
- Is authored by an organization with an established reputation – for example, the government, a community legal clinic, or a well-known nonprofit.

If you're not sure whether to trust a resource, consult this tip-sheet created by Community Legal Education Ontario called [Clues to Reliable Legal Information](#). Community Legal Education Ontario also publishes a helpful [list of reliable legal information resources](#) for a wide range of topics.

Some go-to sources of reliable legal information include:

- [Steps to Justice](#)

- The [CNIB Know Your Rights](#) handbooks
- The [Human Rights Legal Support Centre](#).
- [ARCH Disability Law Centre](#) (only English)
- [Cliquez Justice](#) (only French)

2.3 Find a Lawyer or Paralegal

When to look for a lawyer or paralegal

If possible, it's always better to get legal help **before** a potential legal problem grows into a full, adversarial dispute. Ideally, you should look for a lawyer or paralegal at the **early stages** of self-advocacy: when you are starting to think that something about your current situation is wrong or unfair.

Paralegals provide legal services in a more limited way than lawyers and only in a few areas of the law. You can learn more about the type of work paralegals do [at this webpage](#) from the Law Society of Ontario.

Make sure you work with a **licenced** lawyer or paralegal to protect yourself from getting incorrect legal advice. If you have a bad experience with a licenced legal professional, you can file a complaint with the Law Society of Ontario. In addition, licenced legal professionals are required to carry insurance for making mistakes.

Before you meet with a lawyer

Since legal services are very expensive, you'll want to make the most of the time you spend with a lawyer or paralegal.

A 2018 survey showed that, in Ontario, the average cost for a junior lawyer is between \$150-\$200 an hour and the average cost for a senior lawyer is between \$300-\$400 an hour.

If you aren't eligible for free legal services funded by the provincial government, then you'll need to pay for some or all of your legal costs. Some lawyers work may agree to work at a discount or may

even agree to work for free (called working “pro bono”) because your case relates to issues that they care about.

To get the best value for your money, try to prepare as much as possible **before** meeting with a lawyer. Here are some resources that can help you prepare:

- ARCH Disability Law Centre – [Tip sheet for using legal services](#)
- Community Legal Education Ontario – [Hiring and Working with a Lawyer](#)
- The Law Society of Ontario – [Preparing to Meet Your Lawyer or Paralegal](#)
- Steps to Justice – [How do I prepare for my meeting with a lawyer or paralegal?](#)

Like all service providers, under Ontario’s **Human Rights Code**, lawyers and paralegals are required to provide you with accommodations for your disability, up to point of undue hardship, at no additional cost to you. To learn more, about Ontario’s **Human Rights Code** see Section [3.2](#) below.

How to find a lawyer or paralegal

These resources provide a step-by-step guide to finding a lawyer or paralegal in Ontario:

- Steps to Justice - [How do I find a lawyer or paralegal to help with my legal problem?](#)
- The Law Society of Ontario - [Finding a Lawyer or Paralegal](#)

To find a French-speaking lawyer or paralegal consult [The Association of French-Speaking Jurists of Ontario](#) and the Law Society of Ontario’s [Lawyer & Paralegal Directory](#) where you can search by language.

You will be looking for a legal professional who has relevant experience and who can provide services either free of charge or for a price that falls within your budget. It often takes a significant amount of work to find a specific legal clinic, law firm, or individual lawyer/paralegal who meet both these criteria.

A good place to start your search is by using [free legal services, hotlines, and community clinics](#) as much as possible. Unless you meet certain eligibility criteria, these services will only

provide you with summary legal advice and referrals to other legal service providers. Eligibility criteria are often related to your level of income, the type of legal issue or problem that you have, and the region in Ontario where you live.

It's important to ask for recommendation or referrals to specific lawyers/paralegals from friends, community supports, and other legal professionals. You may need to follow up with multiple referrals before you find a lawyer or paralegal that you are able to work with.

Unfortunately, there are many cases where people do not qualify for free or discounted legal services and also cannot afford a lawyer. If you find yourself in a situation like this, it's very important to reach out to community supports.

For people who are forced to represent themselves in court, there is a group called the [The National Self-Represented Litigants Project \(NSRLP\)](#) that produces many excellent resources including [A Guide for Self-Represented Litigants with Disabilities](#).

2.4 Connect with Community Support

When seeking out community supports, here are some broad categories of organizations to consider:

- Pan-Disability groups: for example, Easter Seals, March of Dimes, the AODA Alliance, and Centres for Independent Living.
- Disability-specific groups: for example, Alliance for Equality of Blind Canadians, Canadian Council of the Blind, and the Canadian Hellen Keller Centre.
- Issue-specific groups: for example, Access Now, A11y, and the Ontario Disability Employment Network.
- Media: national news, local news, Twitter, YouTube, and Facebook.
- Organizations with public profiles: large charities, large corporations, local businesses, industry organizations, and professional associations.

For more ideas, contact CNIB, visit your local library, or call information lines like 2-1-1 (provincial) and 3-1-1 (municipal).

How CNIB can help

We're here to help – contact CNIB for more information about services, supports and resources.

Some ways we can assist include:

CNIB's Advocacy Team

[CNIB's Advocacy Team](#) can assist clients with advocating for themselves and understanding their rights. You can contact us at advocacy@cnib.ca if you have questions.

Vision Loss Rehabilitation Ontario

[Vision Loss Rehabilitation Ontario](#) (VLRO) provides people with the practical skills they need to live safely and independently. For example:

- Guiding techniques: a comfortable way to walk with a sighted person and the ability to use remaining vision and other senses to travel
- Using a white cane and other mobility tools
- Finding and crossing intersections
- Navigating new environments like a workplace or school campus

You can learn more about Vision Loss Rehabilitation Ontario by visiting their [Frequently Asked Questions page](#).

CNIB's Guide Dog Program

[CNIB's Guide Dog Program](#) can assist guide dog handlers with advocating for themselves and understanding their rights. They can also provide public education to organizations through guide dog ambassador speaking engagements, lunch and learns, etc.

3 Essential Legal Information

This section summarizes information that you should know about:

- Key Players in the Legal System
- Key Legislation: Ontario’s **Human Rights Code** and the **Accessibility for Ontarians with Disabilities Act**
- Other Important Legislation

3.1 Key Players in the Legal System

Three Levels of Government

The federal, provincial and municipal levels of government each have many departments and agencies. Each level of government has different areas of control (or areas of “jurisdiction”) which can sometimes overlap.

Courts and Tribunals

There are both federal and provincial courts which each have different areas of control (or areas of “jurisdiction”).

In addition, each level of government can create tribunals which operate like courts and are specialized in certain topics.

Publicly funded Legal Services

In Ontario, the provincial government funds a variety of [free legal services](#). However, most of these services will only provide you with summary legal advice unless you meet certain eligibility criteria.

Legal Professionals

Only licenced lawyers and paralegals can provide legal services. While legal services are very expensive, some legal professionals offer services at discounted rates or even for free (called working “pro bono”). The legal profession is regulated by the Law Society of Ontario. The Law

Society of Ontario can help you find a lawyer. You can also make complaints about lawyers to the Law Society of Ontario.

3.2 Key Legislation

There are two pieces of provincial legislation have the largest impact on people with sight loss: Ontario's **Human Rights Code** (or the "**Code**") and the **Accessibility for Ontarians with Disabilities Act** (or the "**AODA**").

It's important to get a basic understanding of how these laws work because they come up so often in legal advocacy.

Keep in mind that this handbook only provides a basic explanation about how these laws work. If you need to apply these laws to your specific situation, then it's essential that you get legal advice from a lawyer.

Ontario's Human Rights Code (the "Code")

What is the Code?

The Code was first enacted in 1962 and was last updated in 2008. The Code creates Ontario's Human Rights System which has three major institutions:

- The Ontario Human Rights Commission which is responsible for public education, research, and creating policies that help organizations comply with the Code.
- The Human Rights Legal Support Centre which provides people with free legal information and can also provide eligible people with free legal advice and representation.
- The Ontario Human Rights Tribunal which hears complaints from individuals. The Tribunal evaluates complaints and helps opposing parties resolve their dispute through mediation. If this process doesn't resolve the dispute, then the Tribunal will hold a hearing and make a ruling.

How does the Code protect your rights?

The Code gives you important legal rights:

- You have the right to be **free from discrimination and harassment** because of your disability in most areas of public life.
- You have the right to have an **equal level of access** as anyone else to products, services, and facilities that are offered to the public, without discrimination because of your disability.
- You have the right to receive **accommodations** for your disability from a service provider up to the point of **undue hardship**.
- You have the right to **file a human rights complaint** at the Ontario Human Rights Tribunal against service providers that cause you harm because they fail to comply with the Code. The Tribunal has the power to award you remedies that include financial compensation and forcing organizations take specific actions (like forcing an employer to reinstate you in a job or forcing a company to make changes to their policies).

The Code does **not**:

- Give any power to the police to investigate human rights complaints;
- Create detailed rules that describe exactly what counts as “discrimination”, “accommodation”, and “undue hardship” in range of situations or sectors.

Key Concepts: Discrimination, Duty to Accommodate, and Undue Hardship

“**Discrimination**” occurs when a service provider treats you differently because of your disability and this different treatment causes you harm.

When a service provider has a “**duty to accommodate**”, it means that they are legally required to provide you with the supports you need to have an equal level of access as anyone else to products, services, and facilities offered to the public. A service provider’s duty to accommodate is triggered when you disclose your disability and make a request for accommodation. A service provider is required to consider your request individually and must provide you with supports that meet your unique needs.

However, the duty to accommodate has a limit and this limit is called “**undue hardship**”. “Undue hardship” is a legal term. It means that if a service provider can show that it is very difficult for them

to provide you with a certain type of accommodation (because of high costs or health and safety risks), then they don't have to provide it.

It's usually difficult for an organization to claim undue hardship because they have to show clear evidence of undue hardship. Their evidence can only relate to these two factors:

1. Whether the cost of this type of accommodation is so high that it will significantly interfere with their ability to operate their business. When calculating cost, they must also consider outside sources of funding, e.g. grants or subsidies from government programs.
2. Whether this type of accommodation is going to create serious health and safety risks for their operations.

Even if an organization shows that a certain type of accommodation will create undue hardship for them, they still have a legal duty to provide you with the next best type of accommodation.

Essential Resources

- **Steps to Justice** is a resource that provides practical information about common legal issues, including [your human rights](#). They have step-by-step answers to questions related to discrimination in housing, at work, and when receiving services. They also provide detailed information on how to file a human rights complaint.
- **The Human Rights Legal Support Centre** (also known as HRLSC) is an independent agency, funded by the government of Ontario, to provide legal services to individuals who have experienced discrimination. As part of its service, the [HRLSC website](#) provides comprehensive answers to frequently asked questions related to discrimination in housing, work, and when receiving services. It also provides detailed How-to Guides on filing a human rights complaint.
- **The Ontario Human Rights Commission** promotes human rights through public education, research and creating policies that help organizations comply with the Code. [Its website](#) has helpful fact sheets and eLearning resources.

The Accessibility for Ontarians with Disabilities Act (the “AODA”)

What is the AODA?

The AODA was enacted in 2005 with the goal of creating a fully accessible Ontario by 2025. Here are the essential features of the AODA:

- It creates AODA Standards which set out detailed minimum accessibility requirements for different types of services.

[The Access Forward website](#) offers the best overview of AODA Standards. The website was created in partnership with the Government of Ontario to help organizations teach their employees about the AODA.

- It requires almost all organizations in Ontario to comply with AODA Standards, including government, for-profit and not-for-profit organizations.
- It creates the Accessibility Directorate of Ontario which is empowered to conduct inspections and issue fines for non-compliance with AODA Standards.
- It requires the provincial government to conduct a comprehensive independent review of the effectiveness of the AODA every 4 years.

Like all laws, the AODA has strengths and weaknesses. Its greatest strengths are:

- It has strongly promoted a culture and practice of accessibility in Ontario.
- It has helped Ontario become a recognized leader in accessibility both across Canada and around the world.
- It has created set up strong enforcement mechanisms like investigations and major fines.
- The frequent independent reviews provide an open and honest evaluation of the AODA.

The major weaknesses of the AODA include:

- the lack of significant enforcement actions by the Ontario government;
- the slow development of new AODA Standards; and

- the AODA’s inability to deliver on the promise of a fully accessible Ontario by 2025 – the latest independent review of the AODA said that a fully accessible Ontario is “nowhere in sight”.

How does the AODA protect your rights?

It’s important to know that the AODA does not actually give **you** any legal rights. The AODA gives **only the Ontario government** the right to investigate and fine organizations that don’t comply with AODA Standards. No other person or group has legal rights under the AODA against organizations that fail to comply with AODA Standards.

While you can [report organizations](#) that fail to meet AODA Standards to the government, there is no way to **require** the government to enforce compliance in a specific way.

In 2017, about 60,000 organizations were required to file "Accessibility Compliance Reports" under the AODA but only about 50% did so. In the same year, the Accessibility Directorate of Ontario conducted about 2,000 audits, negotiated about 200 compliance plans, and issued only 3 monetary penalties.

All of the three independent reviews of the AODA (in 2010, 2015, and 2019) have called for stronger and higher-profile enforcement efforts.

To our knowledge, the only way to improve AODA enforcement is through political advocacy: we need to either **convince or elect** politicians to take a more serious approach to AODA enforcement. Unfortunately, since 2005, no political party that has been in power has been willing to take strong enforcement actions.

However, despite the lack of strong enforcement, many government organizations, businesses, and non-profits care deeply about complying with the AODA. Most large organizations wish to be recognized as good “corporate citizens” and strive to comply with the AODA.

It is important to recognize that the AODA has successfully fostered a strong culture and practice of accessibility in Ontario.

How do the AODA and the Code relate to each other?

The table below shows how the AODA and the Code have different approaches to promoting accessibility and inclusion:

The AODA	The Code
The AODA sets out detailed minimum accessibility requirements for different types of services.	The Code creates a general legal duty to accommodate (up to the point of undue hardship) that must be customized to the specific situation of each individual.
The AODA cannot be enforced by individuals: you cannot sue an organization for harming you because it failed to comply with the AODA Standards.	The Code can be enforced by individuals: you can file a human rights complaint against an organization for harming you because it failed to comply with the Code.
The AODA says that if there is a conflict between the AODA and another law, then the law that provides the highest degree of inclusion/accessibility takes priority.	The Code says that if there is a conflict between the Code and another law, then the Code takes priority (unless the other law specifically says that it takes priority despite the Code).

Here are two important take-aways:

- The Code provides you with a higher degree of legal protection than the AODA because the Code’s “duty to accommodate” is customized to your specific situation and is enforceable by you at the Ontario Human Rights Tribunal.
- Even if a service provider has fully complied with the applicable AODA Standards, it does not necessarily mean that they have fulfilled their legal duty to accommodate you under the Code.

Essential Resources

- [The Access Forward website](#) offers the best overview of AODA Standards. The website was created in partnership with the Government of Ontario to help organizations teach their employees about the AODA.
- [The AODA Alliance](#) is Ontario's most active advocacy group related to the AODA.
- The 2019 Independent Review of the AODA is [available online](#). While it is a very long and technical document, it provides a comprehensive assessment of the current AODA and identifies opportunities for ongoing advocacy.

3.3 Other Important Legislation

Blind Persons Rights Act

The **Blind Person's Rights Act** was enacted in 1970 and has not changed substantially since then. The Act says that you cannot be denied access to services that are normally available to the public just because you are accompanied by a guide dog.

If this happens to you, ask to speak to a manager or the owner of the business immediately. Explain that you are only asking them to comply with the law and that there are penalties for breaking the law. If they still refuse, you have several options available to you. You can consider contacting:

- The police (at a non-emergency number) who have the power to investigate and issue fines for violations of the **Blind Person's Right Act**. Some police officers may not be aware of their authority to enforce the **Blind Person's Rights Act**, so you may need to inform them.
- Community organizations, like CNIB, who can provide you with support
- A municipal bylaw enforcement officer, depending on the type of business
- A human rights lawyer to see what additional options may be available to you

Municipal By-laws

Many different service providers require a licence from your municipality in order to operate – for example, restaurants, hairdressers, taxis, and construction sites.

Since some municipal licences (and by-laws) can have requirements related to accessibility, contacting municipal by-law enforcement can sometimes be part of an effective legal advocacy plan.

If you need to understand how municipal by-laws apply to your specific situation, then it's essential that you get legal advice from a lawyer.

The Charter of Rights and Freedoms

The Charter of Rights and Freedoms is part of Canada's constitution. Section 15 of the Charter says, among other things, that the government must not discriminate based on disability in its laws or programs.

The law related to Charter enforcement is very complex. Though there have been many Charter lawsuits related to disability issues, the results are not clear: some studies have found that Charter lawsuits have had a "limited impact" on advancing disability-related causes while other studies have found reasons for "cautious optimism".

You need to invest a lot of time, research, and education before you can understand the potential benefits and drawbacks of Charter litigation. For most legal problems, Charter litigation is not an appropriate advocacy strategy. If you are very interested in learning more about Charter litigation, it's essential that you talk to a lawyer.

The Government of Canada's [Guide to the Charter of Rights and Freedoms](#) provides a basic introduction to the law.

A comprehensive (but very technical) review of disability-related Charter litigation is a 2017 academic study called [Peoples with Disabilities and the Charter](#).

Other Federal & Provincial Laws

It is important to keep in mind that many **other** federal or provincial laws (that have not been mentioned at all in this handbook) **can** have a very large impact on your legal advocacy strategy depending on the specific details of your situation. This is another reason why it's important to get legal advice as early as possible.

4 Appendix

Free Legal Advice, Hotlines, & Community Clinics

Legal Aid Ontario

Legal Aid Ontario provides legal services to low-income Ontarians. In order to receive services from Legal Aid Ontario:

- You must meet their [financial eligibility criteria](#); and
- Your problem must fall in one of these areas: domestic violence, family law, immigration and refugee law, criminal law, or poverty law.

Even if you don't meet these two requirements, you can call Legal Aid Ontario's [toll-free hotline](#) and a representative can [refer you](#) to other organizations or agencies that can help you with your legal problem.

Ontario's Community Legal Clinics

In Ontario, legal help is available to low-income people through 73 independent community legal clinics, including 13 [specialty clinics](#). To get the contact information for your regional community clinic, visit [this website](#).

Pro Bono Ontario

Pro Bono Ontario is a non-profit that provides a toll-free legal advice hotline to help people with their legal needs. By [calling their hotline](#), you can speak to a lawyer for 30 minutes about a civil law matter (they do not provide advice for problems related to family law or criminal law)

The Human Rights Legal Support Centre

The Human Rights Legal Support Centre (also known as HRLSC) is an independent agency, funded by the government of Ontario, to provide legal services to individuals who have experienced discrimination. They have a [toll-free hotline](#) where you can get:

- Legal assistance in completing an application to the Human Rights Tribunal of Ontario
- Legal advice about how to address the discrimination that you experienced

ARCH Disability Law Centre

ARCH Disability Law Centre (also called ARCH) is a specialty legal clinic that practices exclusively in disability rights law. ARCH has a [toll-free hotline](#) where you can get:

- up to 30 min of free, confidential legal advice
- referrals to organizations that can provide you with further help

If you meet certain eligibility criteria, ARCH may be able to provide you with additional legal services.

The Ontario Legal Information Centre

The [Ontario Legal Information Centre](#) offers a free 30-minute meeting with a lawyer to any Ontario resident or any person faced with a legal situation in Ontario. Services are offered in person or by telephone in French and in English.

Web / Site Web : cnib.ca / inca.ca

Email / Courriel : info@cnib.ca / info@inca.ca

Toll Free / Sans frais : 1-800-563-2624