Transportation

Know Your Rights – Legal Information Handbook

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CNIB FOUNDATION

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 service.

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To learn more about the Know Your Rights – Newfoundland and Labrador Project, please visit our Know Your Rights – Newfoundland and Labrador webpage.

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My Legal Rights

Q: What legal rights do I have when it comes to transportation in Newfoundland and Labrador?

A: Under Newfoundland and Labrador laws, people with disabilities have important legal rights when it comes to transportation:

- You have the right to have an **equal level of access** as anyone else to public transportation services, without discrimination because of your disability.
- You have the right to receive **accommodations** for your disability from transportation providers up to the point of **undue hardship**.
- You cannot be denied services or denied access to spaces that are normally available to the public because you are accompanied by a guide dog or other service animal.

Duty to Accommodate & Undue Hardship

A transportation provider's "duty to accommodate" means that they are legally required to provide you with the supports/accommodations you need to receive an equal level of access to the transportation service as anyone else. The term "accommodation" is not easily defined and will vary from case-to-case, however, accommodations should be customized to meet your needs.

The duty to accommodate, however, does have a limit and this limit is called "undue hardship". "Undue hardship" is a legal term. It means that if a transportation provider can show that it is very difficult for them to provide you with a certain type of accommodation, then they don't have to provide it.

It's usually difficult for a transportation provider to claim undue hardship because they have to show clear, direct evidence of undue hardship that is not based upon assumptions or stereotypes. While the determination of what constitutes undue hardship is case-specific, some of the commonly considered factors include:

1. Whether the cost of the accommodation is so high that it will significantly interfere with the transportation provider's ability to operate; and

2. Whether the accommodation will create serious health and safety risks.

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

Q: Where do my legal rights come from?

A: Your legal rights come from a variety of different laws, including:

- Newfoundland and Labrador's **Human Rights Act**, which prohibits discrimination based on disability in most areas of public life, including transportation.
- Newfoundland and Labrador's **Service Animal Act**, which prohibits discrimination against people who rely upon service animals, such as guide dogs.
- The **Canadian Human Rights Act** which prohibits discrimination based on disability in most areas of public life where the federal government has authority.
- Common Law – Laws that are made by the decisions of Courts, Boards and Tribunals
- The **Canada Transportation Act** and its **Accessible Transportation for Persons with Disabilities Regulations,** which govern federally regulated transportation providers and outline accommodations that people are entitled to when accessing a federally regulated form of transportation.

Other federal, provincial or municipal laws may apply depending on the type of transportation – see our overview **below**.

Q: Who must comply with Newfoundland and Labrador's transportation laws?

A: People, businesses, organizations and government officials are required to comply with Newfoundland and Labrador's transportation laws. This includes:

- Businesses and organizations that provide transportation services in Newfoundland and Labrador.
- Municipally operated transportation services, provincially operated transportation services, and federally operated transportation services (when operating within Newfoundland and Labrador's borders).
- Staff employed by businesses, government organizations and other organizations that provide transportation services in Newfoundland and Labrador.
- People who access transportation services in Newfoundland and Labrador.

Q: What can I do to enforce my legal rights?

A: If you feel you have been unfairly discriminated against when accessing or trying to access a transportation service, there are things you can do to stand up for yourself.

In general, you should first try to resolve your concerns by speaking with the people and organizations who are directly involved in an informal and collaborative way.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's **Know Your Rights – Newfoundland and Labrador** webpage.

If your concerns can't be addressed through collaborative discussions, you may want to consider consulting with a lawyer, who practices human rights law to see what options are available to you.

It is important to keep in mind that your legal options depend on which level of government has authority over the type of transportation service you're concerned about:

Summary of Transportation Services regulated by each Level of Government

Federally Regulated: Air, Rail, Inter-provincial highway, Inter-provincial ferry services

Provincially Regulated: Provincial highway and road, Provincial ferry services

Municipally and Provincially Regulated: In-town buses, Paratransit

This is a general overview and some exceptions apply.

A human rights lawyer will be able to explain whether any of the following options is available:

- A **complaint** to the **Newfoundland and Labrador Human Rights Commission**
- A complaint to the **Canadian Human Rights Commission** or the **Canadian Transportation Agency** (for federally regulated transportation service providers)
- A **complaint** to the **Office of the Citizens' Representative**

The **Office of the Citizens' Representative** can investigate complaints against provincial government departments and other agencies that are overseen by the provincial government.

- A complaint to the police or bylaw enforcement officer
- A claim before a Newfoundland and Labrador Court

You can also contact staff at the **Newfoundland and Labrador Human Rights Commission** by phone at 1-800-563-5808 (toll-free), by email at **humanrights@gov.nl.ca**, or **online**. Staff cannot provide you with legal advice, however, they can help you understand your legal rights and options. They can also assist with self-advocacy or refer you to other community or government services.

Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to having an equal level of access to transportation services.

This section describes barriers that are commonly experienced and suggests practical next steps. Keep in mind that in most situations, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

Q: I often encounter barriers when trying to use a transportation service. I'd like to make a complaint, but I don't where to start. What can I do?

A: As a first step, consider voicing your concerns to the transportation provider. Many large transportation service providers have a designated person responsible for accessibility who can assist you.

If this does not help, you can gradually escalate your complaint – for example, to higher levels of management or to an official complaint process.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's **Know Your Rights – Newfoundland and Labrador** webpage.

If your concerns are still not addressed, you should consider consulting with a human rights lawyer to see what **options** may be available to you. Your legal options will depend on **which level of government has authority** over the type of transportation service you're concerned about.

Q: The bus that I ride is inaccessible. For example, the bus lacks audio signals that identify stops and the driver does not reliably assist me. This lack of accessibility causes me to miss my stop or miss my bus. What can I do?

A: There are several things you can do to stand up for your rights.

Get Immediate Assistance

To get immediate assistance when onboard, approach the driver to inform them about your sight loss. Explain what problems you are experiencing and what assistance you require in as much

detail as possible. When you disclose your disability to a staff person, you trigger that transit provider's legal duty to accommodate you to the point of undue hardship.

You can ask for different kinds of assistance – for example, the driver could help you by:

- guiding you to a seat
- helping load or unload bags
- announcing stops
- advising you of any hazards or safety issues when exiting the vehicle

If the driver has problems with your requests, consider reminding them of their legal obligation to accommodate you (to the point of undue hardship), so you can have an equal level of access to the transportation service as anyone else.

If this does not help, you can gradually escalate your complaint – for example, to the municipality that is responsible for operating the bus.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's **Know Your Rights – Newfoundland and Labrador** webpage.

If your concerns are still not addressed, consider consulting with a human rights lawyer to see what **options** may be available to you. Your legal options will depend on **which level of government has authority** over the bussing service you're concerned about.

Note: If you're looking for an alternative to the regular urban transit system, the city of St. John's offers **accessible transit** to eligible residents.

Ongoing Advocacy

To advocate for a more permanent solution, you will likely need to learn more about the transit provider – for example:

- Why have they not upgraded their buses to provide audio signals?
- Why does it seem like their staff are not well-informed about their legal obligations and not properly trained to provide accessible customer service?

You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

Q: I sometimes have difficulties navigating through transit stations and terminals. What can I do?

A: There are now many **technological tools** that can help people navigate through public spaces, including transit stations and terminals. If these kinds of technological tools don't meet your needs, your next steps will likely depend on how often you travel through this public space.

If you use the transit station or terminal only rarely (for example, if you are only passing through for a one-time meeting), consider asking for help from those around you to locate staff, like a security guard or ticket collector. When you speak with staff, explain that you are having trouble navigating the station because of your sight loss. Explain what assistance you require in as much detail as possible. When you disclose your disability to an employee, you trigger that organization's legal duty to accommodate you to the point of undue hardship.

If you use the station or terminal more frequently, consider contacting the transportation service provider directly to explore options for ongoing accommodation. If this does not help, you can gradually escalate your complaint – for example, through an official complaint process or to higher levels of management.

If your concerns are still not addressed, consider consulting with a human rights lawyer to see what **options** you have. Your legal options will depend on **which level of government has authority** over the type of transportation service you're concerned about.

Q: I was denied access to a taxi because I am accompanied by a guide dog. What can I do?

A: Aside from a few **very rare** situations, taxi drivers in Newfoundland and Labrador are legally required to transport service animals, such as guide dogs, and their handlers.

To provide assistance in these circumstances, CNIB has developed a **tip sheet** that describes some practical steps you can take to reduce the risk of a bad experience when accessing public places and services with your guide dog, including taxis. If you are still denied access because of your guide dog, there are many ways you can stand up for your rights.

First, consider making a formal complaint with the company that employs the driver. As a result of your complaint, the driver may face a range of disciplinary measures, including being prohibited from continuing to work for the company.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's **Know Your Rights – Newfoundland and Labrador** webpage.

Second, consider consulting with a human rights lawyer about the **options** available to you. You can also contact CNIB for additional support.

It's important to keep in mind that under Newfoundland and Labrador's **Service Animal Act**, police have the power to investigate and charge individuals and corporations for violations of the **Service Animal Act.** Some police officers may not be aware of their authority to enforce the **Service Animal Act**, so you may need to inform them.

Q: When can I be denied access to a taxi because I have a guide dog?

A: A driver of a taxi can legally deny you and your guide dog access if the driver can prove it would cause them undue hardship to transport your guide dog. These situations are very rare; examples include:

- A driver who has a serious medical condition that prevents them from working with dogs.
- A driver who has a genuinely held religious belief that prevents them from being near dogs.

A driver cannot simply pretend to have a serious medical condition or a genuinely held religious belief. If you choose to file a legal complaint and a driver doesn't have clear evidence to support their claims, it's likely that a Court or Board of Inquiry will find them liable for discrimination.

It's important to know that even if a driver has a valid legal reason for denying you service, they and their parent company are still legally required to provide you with the next best accommodation. For example, the next best accommodation could be for the driver to arrange for another vehicle to immediately assist you and to wait with you until that other vehicle arrives.

Getting Help

Legal Services and Information

Legal Aid NL

Legal Aid NL provides legal services to low-income earners in Newfoundland and Labrador. In order to receive services from Legal Aid NL, you must meet their **eligibility requirements.**

To **apply** for Legal Aid and/or to learn more, visit Legal Aid NL's **Frequently Asked Questions** webpage.

The Public Legal Information Association of Newfoundland and Labrador (PLIAN)

PLIAN is an independent non-profit organization and registered charity dedicated to educating Newfoundlanders and Labradorians about the law.

As part of its commitment to increasing and improving access to justice, PLIAN provides free legal information on a variety of topics on its website, including (but not limited to) residential tenancies, family law, and wills and estates.

PLIAN also operates the **Legal Information Line and Lawyer Referral Service**. Through this service, callers can receive general legal information and assistance with navigating the legal system. Clients can also receive referrals to lawyers who are registered with the Lawyer Referral Service. Lawyers who register with this service provide clients with an initial 30-minute consultation at a cost of $40.00 (taxes included).

If you are in Newfoundland, you may contact the Legal Information Line and Lawyer Referral Service as follows:

- Via telephone at: 1-888-660-7788 (toll free) or 709-722-2643
- Via email at: **info@publiclegalinfo.com** or **a2j@publiclegalinfo.com**

If you are in Labrador, you may contact the Legal Information Line and Lawyer Referral Service as follows:

- Via telephone at: 709-896-5235
- Via email at: **labrador@publiclegalinfo.com**

The Newfoundland and Labrador Human Rights Commission

The Newfoundland and Labrador Human Rights Commission is an independent government agency that is responsible for protecting human rights in Newfoundland and Labrador and administering the province's **Human Rights Act**.

The Commission investigates and resolves human rights complaints, provides individuals, groups and organizations with legal information about human rights, and prevents discrimination through education and learning.

The Commission also creates various public education resources (including **Guidelines** and **Frequently Asked Questions** pages) to assist people in Newfoundland and Labrador with better understanding their rights.

For more information about the **complaint process**, visit the **Newfoundland and Labrador Human Rights Commission's** website or contact the Commission **online**, by phone at 1-800-563-5808 (toll-free), or by email at **humanrights@gov.nl.ca**. Commission staff cannot provide legal advice, however, they can help you understand your legal rights and options. They can also assist with self-advocacy or refer you to other community or government services.

Canadian Transportation Agency

The Canadian Transportation Agency (also called the **CTA**) helps protect the human rights of people with disabilities to access federally regulated transportation services. For **federally** regulated transportation services, you may be able to file a **complaint** with the CTA.

The CTA also has a toll-free **Accessible Transportation Complaints Help Line**, wherein staff can provide information and guidance about concerns involving accessible transportation. The

hours of operation for the help line are Monday to Friday, 8:00 a.m. to 5:00 p.m., Eastern Time, and the contact information is:

- **1-844-943-0273**
- **TTY: 1-800-669-5575**

The CTA also publishes a range of helpful materials such as:

- **Take Charge of Your Travel**
- **Travelling with a Service Animal**
- **Additional Seating and the One Person, One Fare Requirement for Domestic Travel: A Guide**

The Canadian Human Rights Commission

The **Canadian Human Rights Commission** deals with complaints under the **Canadian Human Rights Act**. For **federally** regulated transportation services, you may be able to bring a **complaint** about discrimination based on disability to the **Canadian Human Rights Commission**.

Essential Non-Legal Services

Office of the Citizens' Representative

The **Office of the Citizens' Representative** provides a province-wide ombudsman service.

The primary work of the Office of the Citizens' Representative is to accept complaints from citizens who feel they have been treated unfairly by government offices and agencies. The Office of the Citizens' Representative investigates complaints against provincial government departments and other agencies that are overseen by the provincial government.

The Office of the Citizens' Representative can also undertake complaints that study how governmental policies, procedures, and actions can affect a large number of people. These are called systemic complaints and can result in recommendations that have a much broader impact.

You may contact the Office of the Citizens' Representative by phone at 1-800-559-0079 (toll-free) or by email at citrep@gov.nl.ca to discuss a concern or make a complaint.

211 Newfoundland and Labrador

211 Newfoundland and Labrador is a free service that operates 24 hours a day, seven days a week. It exists to connect individuals to government, health and social services that are available across Newfoundland and Labrador.

In addition to searching on the 211 Newfoundland and Labrador website, there are various ways to contact 211 Newfoundland and Labrador, including calling 2-1-1 to talk with a representative about the service you require.

CNIB Services (Non-Legal)

We're here to help – contact CNIB for more services, support, and resources. Some ways we can assist include:

- **CNIB Virtual Programs**
  - CNIB offers a range of free virtual programs for children, youth, adults and families.
  - You can access a list of CNIB's national virtual program offerings on CNIB's website.
  - You can access a list and schedule of CNIB Newfoundland and Labrador's virtual program offerings on CNIB – Newfoundland and Labrador's website.
- **Technology Training**
  - Join CNIB tech leads from across the country for programming that highlights the suite of programs, apps, products and services that will help empower you to achieve your personal and professional goals.

- **Virtual Vision Mate**
    - The Virtual Vision Mate program exists to address the feelings of isolation that many people with sight loss experience. Through the Virtual Vision Mate program, Canadians who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversations.
- **CNIB Online SmartLife Store**
    - CNIB SmartLife is an interactive retail experience that gives people with disabilities hands-on access to the latest breakthroughs in assistive technologies, as well as tried-and-true favourites.
    - SmartLife's goal is not necessarily to sell products but to give customers the skills and confidence they need to make the most out of assistive tools that can help them lead better lives.
- **CNIB's Advocacy Staff**
    - CNIB's Advocacy staff can assist clients with advocating for themselves and understanding their human rights in Newfoundland and Labrador.
- **CNIB's Guide Dog Program**
    - CNIB's Guide Dog Program can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations about the rights of guide dog users.

Vision Loss Rehabilitation

Vision Loss Rehabilitation Canada (VLRC) is a not-for-profit national healthcare organization and the leading provider of rehabilitation therapy and healthcare services for individuals with sight loss. VLRC provides people with the practical skills they need to live safely and independently. VLRC's services are tailored to the unique needs and goals of each person. VLRC's services include, but are not limited to:

- Assistance with navigating new environments and using mobility tools

- Assistance with maximizing remaining vision with optical and non-optical devices
- Assistance with developing or restoring key daily living skills, such as learning new ways to cook, shop and manage your home
- Assistance with accessing information and using technology

VLRC has offices located in St. John's, Grand Falls-Windsor and Corner Brook. You can contact VLRC by phone at:

- St. John's or Grand Falls-Windsor Office - 709-754-1180
- Corner Brook Office - 709-639-9167 ext. 5850 or 5851

Wayfinding

Wayfinding refers to technological tools that assist partially sighted, blind and Deafblind persons with navigation and orientation. Such tools include:

- **BlindSquare**: a GPS-app developed for people with sight loss that describes the environment and announces points of interest and street intersections.
- **Key 2 Access**: a pedestrian mobility app that allows users to wirelessly request crossing at intersections without having to locate the button on the pole. It also allows users to wirelessly open doors and obtain information about indoor spaces.
- **Access Now**: a map application that shares accessibility information for locations based on users' feedback.
- **Be My Eyes**: a volunteer-based app that connects people with sight loss to sighted volunteers, who can assist with tasks such as checking expiry dates, distinguishing colors, reading instructions or navigating new surroundings.
- The **American Foundation for the Blind**, which provides an overview of some of the apps that are available to assist consumers with reading items such as product labels and menus.

cnib.ca | info@cnib.ca | 1-800-563-2642