**Know Your Rights Podcast Series**

**Episode 9: Education**

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**Jacob:** Well, hello and welcome back CNIB's Know Your Rights Podcast. My name's Jacob Charendoff, and I'll be your host for today's episode, which is all about education and human rights. And we're gonna be specifically focused on post-secondary education. Today, I'm joined by Hina Ghaus who is a human rights lawyer and also volunteers at the ARCH Disability Law Center, along with Alicia Chenier, who is a fourth-year early childhood education student. And Alicia, I know that you've had some issues regarding your rights as a student, and I'd love to learn a little bit more about what's been going on.

**Alicia:** Yeah, sure. So I started at my college four years ago. I've noticed that there was a huge difference between college and high school, specifically. So I really had to take the accommodations and the accessibility under my own wing, if you will. And really, you know, like, having to step up because in high school, it's basically like, you know, the teachers get papers and it's all laid out for them. So it's been a long journey of accessibility and figuring out my rights and my accommodations.

**Jacob:** I totally get you on that one.I definitely remember, you know, for myself going through that exact process of trying to figure out how to transition, you know, from secondary school to post-secondary.How have you managed to, you know, navigate that challenging situation?

**Alicia:** Yeah, so it's funny 'cause I like to often say I minor in accessibility, but major in my early childhood education. But I think it's just taking it day by day and really having that connection with my accessibility advisor and with my professors and my program coordinator and keeping that connection open because, you know, classes, I'm thankful, like, I go to a smaller college where there's only like, up to 40 of us in a classroom at once. But, you know, there's still a lot of students, so some profs might not know you unless you speak up.

**Jacob:** And do you find that you're more responsible for informing your profs individually, or do you feel that the accessibility department has, you know, done their job in, you know, explaining what accommodations you need to succeed in your classes?

**Alicia:** So it's been, 'cause there's been many transitions, I guess, with the pandemic too. So a lot of it is done through an online system now, like an automated system, where I have access to sending them my, like, I can just click a button, and then for each semester, my profs will get an accommodation letter saying, "This student has a disability or needs accommodations." But I would say like, 90% of that communication is me. And then if things tend to, you know, not go in my favour, if I'm having a little bit of accommodation problems within a class, if a prof is unaware or just not really meeting those accommodation needs, then that's when I would bring my advisor in to help.

**Jacob:** Okay. And the types of accommodations you need, is that something that, you know, your educational institute is easily able to accommodate? Have you had any challenging situations where you maybe weren't the most accommodated? Anything like that?

**Alicia:** Yeah, so there's a few things. I think there's like, there's two things that come to mind in this. One was when I first started out at the college. And before I even like, got into the program, I would visit my college every week 'cause I had known that's the college I was going to. I was staying in my town or my city. So I was visiting there with my orientation

and mobility instructor. And we would visit the accessibility people there. But we couldn't really start anything until I was guaranteed in the program, and I was actually gonna be a student there. But I had noticed already that I need like, the physical environment was just not accessible. For me, that includes like, marking like, yellow on the stairs for me to be able to see up and down.

**Jacob:** And it sounds like you've had to do a lot of advocating for yourself. Can you tell me a little bit about how you've done that and if you've found that to be a successful route to getting the responses and the accommodations that you need?

**Alicia:** Yeah, absolutely. So for me, with that specific situation, with navigating my physical environment, I was trying to figure out who to actually go to. So I managed to get in touch with the head of my accessibility services center. And then through that, I was actually able to set up a meeting with her and a few of the other heads of the actual college. And we were able to do a whole walk-around of the college. Basically, them with a bunch of clipboards and, you know, jotting down kind of what needed to be fixed and kind of how I could, you know, be safe in my own environment.

**Jacob:** Yeah, it's almost surprising that this seems like this was the first time that this school had encountered, you know, having to accommodate in college. I met with, I can't remember who it was, but there was basically a form that was filled out. Not by me 'cause I couldn't see it, so maybe not the best process up front, but. And there was a whole kind of audit on the accommodations that I would need to be successful. Granted, those weren't, I ran into similar issues as yourself, but there were some elements that were put in place which I was actually pleasantly surprised about. Did you have a similar experience with that as, you know, something prior to beginning your education?

**Alicia:** I guess the closest I can really relate to was having, like, CNIB was involved since the start and really helping me get accommodated and all that, but I did like, get set up with like, when I was confirmed, like, when I got my acceptance letter, and started that. I was able to meet and get an accessibility advisor, and then we basically went through everything that needed to be done within the classroom. But at the time we didn't necessarily think about outside of the classroom, which is two very different things, right? So they were able to help me with that, but I had to really take it to a higher level when it came to the whole physical area. Because, you know, there was things like, the accessibility advisor was able to help me in the classroom, but when it came to the whole college, it's very different.

**Jacob:** Yeah. It sounds like you've done some amazing work advocating for yourself, and I'm sure that the institution is, you know, grateful for that. It's probably opened o shone some light onto areas that they weren't conscious of. Have they been open and receptive to your input and advocacy?

**Alicia:** Absolutely, yes. Because of me There was me and a few other students a few years back, and through another event, we just started talking about, you know, how it's really hard for students with just like, not just vision loss. It's hard for students with any type of disability to be a student in this day and age. Like, you know, like, there's accommodations, but it's still very hard and things that need to be shed light on. So the college actually allowed us to create an event called Access Equals Love, which is surrounding the week of Valentine's Day where we, you know, all these students, like, there's a bunch o different organizations come in and talk about different supports that are in place. So like CNIB, the Canadian Hearing Loss Association, and all of those. And then at the end of the week, the students on this committee for Access Equals Love, we make a panel, an we talk about our lives and our lived experiences within post-secondary. And it's a really safe, open space for profs and staff and anyone to come and ask us questions and how they can better their classes.

**Jacob:** That's amazing. Congratulations for, you know, spearheading that, really. I think that's so important and amazing to heat that you are, you know, advocating for change, not only for yourself, but for other students and helping, you know, the institution understand, you know, what accommodation really means. And before I kind of start, you know, getting into more of the legal side of things, so just bear with me a moment, Hina, I'm curious to know, Alicia, how you found what accommodations were appropriate for you. How did that process work? Did that change going from high school to post-secondary Did you have a really strong foundation coming into high school? I'd love to hear a little bit more about that.

**Alicia:** Yeah, so my accommodation journey has been quite the journey. In high school, I think I was in grade 12, we had a huge assessment done with W. Ross, which is a school for the blind out in Toronto. They came. And they came and assessed me and basically helped figure out like, you know, did a bunch of tests on me. You know, like, just like assessments and all that. And then they were able to actually put together a whole letter and list of the recommendations for accommodations for me that I could bring to college. So some of these requiring large-print documents and handouts, extra time on tests and assignments, different due dates, having my textbooks enlarged as well. So I don't think a lot has changed, necessarily. My font size has changed because there's a lot more reading in college, and my eyes have definitely gotten tired.

**Jacob:** I can imagine.

**Alicia:** Yeah.

**Jacob:** That's really great that you've had such support finding accommodations through that process. It sounds like a really amazing program. My question for you is, do you have any advice for anybody who might be listening who's kind of going through a similar journey right now trying to find what accommodations work for them? You really nailed it, that it is a journey. I've been there myself, and it's a lot of trial and error, from my experience. But do you have any insight or any helpful tips to share with any of our listeners?

**Alicia:** Yeah, something that I found was, you know, connecting with your accessibility advisors and being open. If they have things to try, like, try accommodations out. Try the voice to text, try the, you know, computer software, like, the different software’s. Yeah, try it, and if it doesn't work, there's always another option.

**Jacob:** Yeah, I think that's really, really great advice and highly relatable. You know, there's so much out there, and it really is a trial-and-error process.

**Alicia:** And can I add something, one more thing too?

**Jacob:** Yeah, of course.

**Alicia:** Yeah. So just don't be afraid to speak up. If there's something that doesn't work for you, like an accommodation, or is there something that you need, do not be afraid. You know, you have the right.

**Jacob:** Yeah, I think that's, you know, that's such helpful advice and a really good segue into, you know, what our rights are as individuals who have visible or invisible difference when it comes to education. Do we need to be, you know, advocating for ourselves in the way that you've done such an amazing job, or should it be more of an expectation when we enter an educational setting? So, Hina, I'd love to hear your opinion on kind of Alicia's circumstance and what the institution may have been maybe required to do, or how they may have handled this situation a little differently.

**Hina:** Mm-hmm. So what I think that's really interesting about Alicia's story is how she mentions that it's really an accommodation journey. So if you look at elementary schools and high schools, the schools generally take more of a proactive approach when they're coming towards accommodations. I mean, you know, elementary schools, high schools, they have specific legislation that applies, and so they have more of that proactive responsibility. When you go forward into post-secondary institutions, such as colleges and universities, it really lands on the student to advocate for themselves, to inform the institution that they have a disability, and they require accommodation. So that's why Alicia's journey of showing how well she's advocated for herself, it's really inspiring because that's what you're supposed to do. But it's definitely not an easy thing, especially to say, "This isn't working for me. I need something else." So, I mean, Alicia's a prime example of what can work, but there's a lot of situations where it's difficult for people to navigate the post-secondary accommodations.

**Jacob:** Yeah, I totally agree, and I think that that's where a lot of confusion might come up. So one thing, Hina, you just mentioned that I wasn't aware of, that elementary and secondary schools have some sort of legislation that requires them to kind of be a little bit more involved in the accommodation process. And in post-secondary, that might not be the case. Why do you think that is?

**Hina:** So I don't know why that is. It might just be because it's a little easier to legislate for, you know, public schools and high schools. And because the students are so much younger, you have these processes in place where they label students with different labels, such as exceptional, and then they provide them with different support that they might need at a very young age. 'Cause students are not able to accommodate for, or advocate for themselves necessarily at the elementary school level. Now, why this isn't the same at the post-secondary level, I don't know, but, you know, we have legislation that applies both to elementary school and the post-secondary level, such as Ontario's Human Rights Code. So there are these overlapping legislations, but it's just that the junior-level schools also have the Education Act to support accommodation.

**Jacob:** Cool. Good to know. I actually didn't know that, so thank you for sharing that that was the law. So it's always fun to learn new stuff on these episodes. So I guess my question would be kind of diving right into the topic of, what are the rights for those who require accommodation and maybe don't have the same, you know, tenacity and advocacy skills that Alicia did to get the accommodation she needs? How would somebody approach that if they didn't necessarily know how to navigate as well as Alicia has?

**Hina:** Well, the way I would start is to make sure that you know what your rights are. So students with disabilities, including sight loss, they have the right to receive a meaningful education without discrimination because of their disability. So that means educational institutions, such as post-secondary institutions, they actually have a legal duty to accommodate students with disabilities. So that means the educational institution is legally required to provide a student with the supports that they might need to receive that equal education. And so it's the educational institution's responsibility, up to a certain point, to provide you with what you need.

**Jacob:** Yeah, I think that's, I'm gonna just kind of shift the conversation slightly here and use myself as an example that kind of might highlight some of those areas of, you know, up to a certain point or what might be reasonable accommodation. So as some of you may know, I was declined accommodation to write a professional exam a few years ago. And the rationale that was given was that the accommodations that I requested were unreasonable and was proposed to have other accommodations that I felt were unreasonable. So in a situation like that, what is a reasonable accommodation?

**Hina:** Hmm. So if we look at the word "accommodation," what accommodations could be are really either changes to the physical environment or changes to the service that will allow you to better access and benefit from the education. So there's no one accommodation that will fit for everybody. Accommodation is sort of like a spectrum. So on one end, you might have what's the best accommodation for you, what you might need in that situation, but it's an assessment hat involves what you need and what the institution is also able to provide. So what is the best accommodation, if the institution can't provide it right away, what they have a responsibility to do is to provide you with what are called interim accommodations, which means an accommodation in the meantime while they try to figure out how to give you the best accommodation, or try to figure out how to give you the next-best accommodation. So if they can't give you your ideal accommodation, they might give you an alternative accommodation. But throughout that whole time, you're not just sitting there with nothing. You have something to make sure you can still meaningfully access your education. So it's really a very specific exercise about what the student needs and how they can impose that in the institution.

**Jacob:** So I'm gonna be the one who brings up the legal jargon today 'cause I think it's relevant to this. So how would kind of the point of undue hardship tie into a discussion like this? You know, I know you've been kind of tiptoeing around the idea there, but if you could just explain to our listeners a little bit about what that means, and how it may pertain to a situation in an educational institution.

**Hina:** Right, so you've heard me say that an educational institution has to provide accommodation up to a certain point. The legal term for that certain point is undue hardship. So undue hardship really means if a service provider can demonstrate that it's very difficult to accommodate a student with a disability with a certain type of accommodation, then the services provider does not have to provide it. Now, reaching this point of undue hardship is not easy. It's a very, very, very high legal threshold. So the Ontario Human Rights Code, it actually only provides three things that go into the assessment of whether an institution reaches the point of undue hardship. So they look at costs to the institution, they look at considering outside sources of funding, and they look at health and safety. So what that means is if an institution finds that an accommodation, it's just inconvenient or it's a little expensive, that's not enough of a reason to say no. It has to really reach that very high legal limit of undue hardship for them to deny it. Yeah, and thank you for beautifully articulating that. And the reason I just wanted to highlight that was because I think it's really important for people to understand that concept and that, you know, protective measure that is there for, you know, those of you who are going through post-secondary education, or if you have friends or family that might be in a similar circumstance with that. So, you know, I guess this comes up a lot in the other episodes as well, is, how does that pertain to different provinces within Canada? Are there different kind of legalities around accommodation in different provinces? Is it a standard kind of clause in all of Canada? I'd love to know a little bit more if there's differences from province to province. Right, so generally speaking, each province has its own human rights legislation. And within each of those human rights legislations, there's protected social areas and protected grounds. I'm pretty confident that, in all of the provinces, education falls under the area of services. So it is a protected area. And disability is a protected ground. So students with disabilities across Canada, in their own provinces, have these similar rights. So that's something you can rely on. Here in Ontario, our Ontario Human Rights Code, which is our provincial legislation, it actually is called quasi-constitutional legislation sometimes. And what that means is that it takes precedent, or primacy, over other Ontario laws. Unless the other Ontario law specifically says otherwise, that means if there's sort of a conflict, the Human Rights Code will prevail. So that's a really important thing to know about human rights legislation

**Jacob:** Thanks so much for sharing that. And I have a little bit of a curve ball 'cause it wouldn't be a fun podcast episode if we didn't have some keeping our participants on their toes. So let's say that Alicia is an Ontario resident, but she is in a post-secondary institution that is in British Columbia. How does that work with cross-border provincial human rights issues?

**Hina:** So this is going back to law school and jurisdictional issues, but my understanding is if she's going to a school in British Columbia, and that's where the discriminatory event happened, she would go to that tribunal. Just because she's an Ontario resident wouldn't mean she would come back here, and then try to bring a claim. She would go to the British Columbia Human Rights Tribunal and apply that act.

**Jacob:** Okay, good to know. I was actually curious about that 'cause I know especially with post-secondary, there is a lot of, you know, traveling going on within Canada. So I think the rule of thumb here is always to check with, you know, a local legal institution that, you know, can best advise you on that front and always to reference any of the links that are in the description of the podcast below for more information about, you know, what your rights are and to always, you know, consult a legal expert with regards to any kind of claims that you may be considering. So I mean, here's where I kind of take things from, you know, what I've heard from Hina and Alicia, and I just want to thank both of you for taking the time to, you know, chat today. Both of you have provided such great insight and perspective on the topic. I think the biggest takeaway here is that, you know, accommodation is, it's important to be really aware of what is going to set you as a student up for success. To be conscious, to be aware, to take responsibility for your education, for the accommodations that are gonna set you up for, you know, a successful education. And, you know, there's a lot of resources that are out there. Alicia has done an amazing job of, you know, connecting with those resources. The CNIB is always, you know, a fantastic resource to reference. And, you know, speaking to other people in the community, speaking to the school in advance, and, you know, finding out how they might be able to assist you in developin an accommodation plan to, once again, set yourself up for success I know that that's something that, you know, has been important for me, is to really understand what technologies, what, you know, different approaches are going to allow me to be as successful as possible, whether it's my personal or professional life? And to rely on those, to make sure that they're available, that I'm comfortable with the accommodation so that I can do, you know, my best studying or my best work, or whatever it's going to be. So I mean, that's what I'd like to leave everybody with today, is to really take a role in your accommodation. Obviously, you know, understanding what your rights are as a person with visible or invisible difference is really important but, you know, the last-case scenario should be filing some sort of formal complain and, you know, trying to find a resolution, and in Alicia's circumstance, helping the institution understand how to better accommodate. I mean, that is such a beautiful example of advocacy, not only for yourself, but for the betterment of other students in the future. So, you know, well done, Alicia. Before we wrap up today, do either of you have any closing remarks?

**Alicia:** It’s Alicia. I think something too. When approaching your profs, and say if you have a prof that's a little bit, I guess, hesitant or not wanting to do the accommodations, for me, I like, had enlarged papers, and really sitting down with them. 'Cause I had one and saying like, "Oh, this is just something extra for you." Really telling them that this is not like, this isn't putting me above anyone, it's making me equal. My accommodations are what make me equal in a same level playing field as everyone else. And that really opened her eyes.

**Jacob:** Yeah, for sure. You know, you've done suc a good job of, you know, articulating the importance of advocating and, you know, teaching, which is so amazing to hear. So, you know, Alicia, congratulations to you

for all that you've done, and, you know, best of luck in your studies. And you're going into education, so you're well on your way to, you know, educating the world about a more inclusive space. So thanks so much for joining. And Hina, is there anything kind of from a legal perspective that you'd like to leave our listeners with?

**Hina:** Yeah, I'd just like to add on that accommodation is really a collaborative process. So it's a two-way street where the student has to, you know, know what they need or try out different things, and the institution also has a responsibility to try out different things. Because accommodations are not gonna be the same for everyone. It really depends on what works for you. So that's why what's so important with accommodations is not just the process of finding the accommodation, but the actual accommodation that's provided too. So I just wanted to leave everyone with that, that it's a two-way street and it's just what you need to get meaningful education for everyone.

**Jacob:** Well said. I think that is a perfect way to sum up today's episode, that accommodations are individual at the end of the day. We're all individual, we all learn, we all experience things differently, and having a collaborative process is going to set you up for the best success possible. So, guys, thanks so much for joining today. Take care.

**Alicia:** Thanks.

**Hina:** Thanks.

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