# Education

## Know Your Rights Alberta – Legal Information Handbook

November 2024

CNIB

## Disclaimer

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

## Acknowledgements

Thank you to the **Alberta Law Foundation** for making the Know Your Rights project possible. While financially supported by the Alberta Law Foundation, CNIB is solely responsible for all content.

Thank you to the **Centre for Public Legal Education Alberta (CPLEA)** for partnering with the Know Your Rights project and providing the legal research necessary to complete this legal information handbook.

Thank you to the many volunteers and institutional collaborators who contributed to developing this legal information handbook, specifically the Focus Group and Working Group participants.

To learn more about the Know Your Rights project, please visit **cnib.ca/KnowYourRights**

# Table of Contents


## My Legal Rights ..... 5

Q: What legal rights do I have when it comes to education in Alberta? ..... 5

Q: Where do my legal rights come from? ..... 6

Q: Who must comply with Alberta's laws related to education? ..... 7

Q: What can I do to enforce my legal rights? ..... 8

## Common Scenarios ..... 8

Q: The communications I receive from my child's school are not in an accessible format. This includes correspondence, progress reports, and report cards. What can I do? ..... 9

Q: I worry that if I advocate for myself, my child will be negatively affected. What can I do? ..... 9

Q: Which body, in Alberta, is responsible for developing and implementing an accommodation plan? Is it the school board? Or is it individual schools? ..... 10

Q: My child, who has sight loss, will be starting school soon. What can I do to ensure that my child is accommodated? ..... 10

Q: The school/school board implemented an accommodation plan to support my child, who has sight loss. I do not agree with the school board's approach to accommodations. What can I do? ..... 11

Q: What do I do if my child's school is not providing the required accommodations, or is taking too long to implement them? ..... 12

Q: I have been advised by my child's school that due to various factors, such as safety risks and cost, that my child will not be permitted to participate in certain activities. Examples of these activities include using the school playground and attending school trips. What can I do? ..... 12

Q: As a high school student with sight loss, I struggle to find reasonable accommodations. Sometimes, I am given the wrong accommodations. For example, receiving large print when I need braille. What can I do? ..... 13

Q: I applied to several private colleges but was denied admission due to my sight loss. I was told by these institutions that they had never had a student with a disability like mine, and that they did not know how to accommodate me. What can I do? ..... 13

Q: I have been accepted to a post-secondary institution, but I'm uncertain about what steps I need to take to have my sight loss accommodated. What can I do? ..... 14

Q: Despite my requests, my post-secondary institution has not provided me with the accommodations that I require. What can I do? ..... 15

Q: My post-secondary institution has advised me that I am required to secure and pay for my own accommodations. Is this true? ..... 16

Q: My professor is unwilling to comply with the plan for accommodations that has been put in place for me by my post-secondary institution. For example, they will not meet with one-on-one unless I am accompanied by an Education Assistant, and will not provide me with copies of the PowerPoint presentations they use during lectures. What can I do? ..... 16

Q: My post-secondary institution has advised me that it cannot accommodate certain aspects of my degree/diploma (such as a practicum). I have been told that I have to switch programs/placements or leave the institution. What can I do? ..... 17

# My Legal Rights

## Q: What legal rights do I have when it comes to education in Alberta?

**A:** Under Alberta laws, people with disabilities have important legal rights when it comes to education. Students with disabilities have the right to equal access to and benefit from the educational system.

- You have the right to receive an education equal to your peers without discrimination because of your disability.
- You have the right to receive accommodations for your disability from your educational institution up to the point of undue hardship.
- You have the right to challenge administrative decisions made about you by schools, school boards, and other educational institutions.
- A child with disabilities in Alberta has the right to receive appropriate special education programs and services at no additional cost to their parents or guardians.

### Duty to Accommodate & Undue Hardship

An educational institution's **"duty to accommodate"** means that they are legally required to provide you with the supports you, or your child, need to have an equal level of access to, and succeed, in education.

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 an educational institution can show that it would be very difficult for them to provide you with a certain type of accommodation, then they do not have to provide it.

It is important to note that it is not enough for an educational institution to simply claim undue hardship. An educational institution **must show clear evidence** of undue hardship. Such evidence can relate to:

1. Whether the cost of the accommodation is so high that it will significantly interfere with the educational institution's ability to operate. When calculating cost, consideration should also be given to outside sources of funding, such as grants or subsidies from government programs.
2. Whether the accommodation will create serious health and safety risks.
3. Whether the accommodation infringes upon the protected rights of other people, and whether other accommodations may be more appropriate, given the rights of others.

4. Whether there have been past unsuccessful efforts to accommodate.

Even if an educational institution can show that an accommodation would cause undue hardship, they may still have a legal duty to provide you with the **next best** accommodation.

**The Rights of Parents or Guardians**

- Parents or guardians with disabilities have the right to receive communications from schools in accessible formats. Communications include parent guides, report cards, consent forms, schedules, or newsletters.
- Parents or guardians of a child with disabilities have the right to be consulted about the accommodations that are necessary to meet their child's educational needs.

Parents can get in touch with the **Ministry of Education** to discuss their child's educational needs. Parents may find it helpful to review resources on **teaching students with visual impairments.**

## Q: Where do my legal rights come from?

**A:** Your legal rights relating to **primary and secondary education** come from a variety of different laws including:

- **Alberta Human Rights Act**
    - Prohibits discrimination based on disability in most areas of public life, including education.
- Alberta's **Blind Persons' Rights Act**
    - Protects the rights of individuals who are blind or visually impaired. It ensures that they have equal access to public spaces, services, and accommodations.
- Alberta's **Education Act**
    - Governs how public schools and separate schools deliver services in Alberta.
    - See also the following regulations under the Education Act that regulate different types of schools: **Charter Schools Regulation**, **Early Childhood Services Regulation**, and **Private Schools Regulation**
- **The Canadian Charter of Rights and Freedoms**

- Guarantees equality of the law including equal benefit of the law without discrimination.

Your legal rights relating to **postsecondary education** come from a variety of different laws including:

- **Alberta Human Rights Act**
- **The Canadian Charter of Rights and Freedoms**
- Alberta's **Post-Secondary Learning Act**
  - Governs how post-secondary institutions deliver services in Alberta.
- Alberta's **Private Vocational Training Act**
  - Governs how private vocational institutions services in Alberta, including consumer protections for students.

The Government of Alberta provides information about the rights and responsibilities of students with disabilities, who are exploring or attending, post-secondary programs in Alberta. Review the **Resources for Students with Disabilities** website.

## Q: Who must comply with Alberta's laws related to education?

**A:** Students and staff, schools, educational institutions, and the Alberta government are required to comply with Alberta's education laws. This includes:

- People within the education system, such as deans, professors, principals, vice-principals, teachers, other school officials, parents/guardians, school council and students
- Educational institutions, including:
  - Early childhood pre-schools, such as daycares
  - Primary and secondary schools (public and private) including French-language schools
  - School boards
  - Special schools such as hospital schools, care and treatment programs
- Universities and colleges including private colleges, trade schools, and professional accreditation courses
- Government ministries, such as the **Ministry of Education** and the **Ministry of Advanced Education**

- Professional bodies such as the **Alberta Teaching Profession Commission** and the **Association of Early Childhood Educators of Alberta**

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

**A:** If you feel you or your child have been unfairly discriminated against by an educational institution, 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 who are directly involved in an informal and collaborative way.

If you need help addressing an accessibility barrier or need individual advocacy support, CNIB may be able to help. CNIB advocacy support services are available to give you the tools and resources you need to take action and confidently advocate for yourself. Submit a request for one-to-one advocacy support **here**.

For additional resources on self-advocacy, review the **Self-Advocacy & Essential Legal Information Handbook** on the Know Your Rights website.

Consider the following legal options you can pursue:

- Make a complaint to the **Alberta Ombudsman.** The Ombudsman can consider whether an individual has been unfairly treated by the **Ministry of Education** or the **Ministry of Advanced Education**.

**Note:** Ombudsman Alberta does not have jurisdiction to investigate complaints regarding public or private schools, teachers, or school board.

- Make a complaint to the **Alberta Teaching Profession Commission**
- Make a complaint with the **Alberta Human Rights Commission**
- Contact the **Office of the Advocate for Persons with Disabilities** for assistance

You may also consider hiring a lawyer to help you with any of the legal options listed above or to pursue other legal options, such as a claim before an **Alberta Court.**

## Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to receiving an education that is equal to their peers.

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.

## Parents with Sight Loss

### Q: The communications I receive from my child's school are not in an accessible format. This includes correspondence, progress reports, and report cards. What can I do?

**A:** As a parent, the school has a legal duty to accommodate you, to the point of undue hardship. Once you make your sight loss known to the school, you can request that the school communicate with you using accessible formats, such as:

- Email
- Accessible PDF documents
- Microsoft Word documents

If you are unable to access the above options, and/or do not have screen reader software on your device, you can ask that a school representative read the correspondence to you aloud.

### Q: I worry that if I advocate for myself, my child will be negatively affected. What can I do?

**A:** Advocating for yourself is crucial in ensuring you are involved in your child's experience at school. Approach advocacy as a partnership with the school. Discuss potential accommodations or adjustments that can support your involvement in your child's education.

Have open discussions with your child about your sight loss and involve them in discussions about the accommodations you require as a parent. Make sure they know they can come to you if they are negatively affected at school due to your advocacy. Your child should not be treated any differently than other students at school because of your sight loss.

If you feel that the school is not being supportive of you, consider contacting the appropriate school board. They will be compelled to address your concerns with your child's school.

# Elementary and Secondary School-Aged Children and Young People with Sight Loss

## Q: Which body, in Alberta, is responsible for developing and implementing an accommodation plan? Is it the school board? Or is it individual schools?

**A**: **Alberta Education** dictates that educators have a professional obligation to participate in a child's **individualized program plan (IPP)**. This plan contains both short and long-term goals for your child based on their individual strengths, weaknesses and accommodation needs. Your child's "learning team" creates and monitors the IPP. The learning team may include the principal, teachers, caregivers, health-related professionals, educational specialists and anyone else that plays an important role in your child's education.

**Supports for Students with Visual Impairments (SSVI)** provides resources to schools in Alberta's K to 12 education system, for students who are blind or visually impaired.

Students accessing these services need to be assessed and registered with SSVI. Assessment is completed by a qualified specialist. Contact your school jurisdiction to learn how to schedule an assessment.

It is important to note that the accommodations process is collaborative, and requires good faith efforts by all parties, including the parent or caregiver.

## Q: My child, who has sight loss, will be starting school soon. What can I do to ensure that my child is accommodated?

**A:** All children in Alberta have the right to receive equal treatment with respect to education without discrimination because of disability. This includes the right to receive meaningful access to education and the benefits of education. **The Standards for Special Education** require school boards to identify and deliver effective programming for students that present special educational needs. Once a school is made aware of your child's disability, the school has a duty to accommodate your child's needs up to the point of undue hardship.

**Plan Ahead**

The **Ministry of Education** provides resources for teachers and parents/guardians to help them meet student-learning needs. It is critical to plan ahead. Before registering your child for school, consider whether your child's needs require specialized programming and assistance. Planning ahead allows you the opportunity to consider all of the programming options offered by your child's school. For further information, **contact your school division.**

**The School’s Duty to Accommodate**
The school’s duty to accommodate is triggered when the school is made aware of your child's disability. It is important for you to provide the school with as much information as possible. This will assist the school in preparing for your child’s educational and transportation needs. Keep in mind that your relationship with the school will be long-lasting and that collaboration is key to ensuring your child thrives in an educational environment.

When considering your options, you should contact the school or school board well in advance of enrollment to discuss the ways in which your child's disability can be accommodated. They may need time to gather the appropriate resources in advance.

In most cases, schools are expected to provide children with individual accommodations that allow for the child's full participation and integration in the classroom environment. Examples of accommodations include:

- Assessments
- Resource programs
- Educational Assistants
- Special programs
- Classroom supports
- Consultative supports
- Counsellors/Social Workers

**Children and Self-Advocacy**
Once your child has been registered for school, encourage your child to advocate for themselves by letting you and their teacher know when they're having difficulties due to their sight loss. This will be helpful in determining whether adjustments need to be made to accommodations and how to best meet their current and future educational needs.
If your child is new to school, you can help them by practicing advocacy skills at home. If they are prepared to speak on their own behalf, it will be less intimidating to do so in real-life scenarios.

## Q: The school/school board implemented an accommodation plan to support my child, who has sight loss. I do not agree with the school board's approach to accommodations. What can I do?

**A:** If the school or school board proposes an accommodation that you have concerns about or disagree with, it's important to share these concerns with school officials. The development and

implementation of accommodations is a collaborative process that will involve you, school officials, and in many cases, your child.

Consider requesting a meeting with your child's teacher, vice-principal or principal to better understand or to challenge the position of the school. If this request is not accommodated or the matter is not resolved, request to meet with a superintendent or school board official to discuss your concerns.

**The School's Duty to Accommodate**
Schools are required to develop and implement accommodations that will meet your child's individual needs up to the point of undue hardship. It's important to keep in mind that schools are not legally obligated to ensure your child's accommodation is "perfect" or to provide your child with your "preferred" accommodation because there may be an alternative accommodation that responds to your child's needs just as well.

If it will take a lot of time to develop and implement the "best" accommodation, the school or school board has a duty to provide an alternative or "next best" temporary accommodation to ensure that your child's interim educational needs are met.

## Q: What do I do if my child's school is not providing the required accommodations, or is taking too long to implement them?

**A:** Your child's school must reasonably accommodate your child, and they are obligated to adhere to your child's **individualized program plan (IPP)**. If they are not providing the required accommodations or you feel like it is taking too long, consider scheduling a meeting with your child's teachers and school officials. If needed, you can also arrange a meeting with members of the school board. Should these efforts prove unsuccessful, there are several other avenues you can explore:

- Make a complaint to the **Alberta Teaching Profession Commission.**
- Make a complaint to the **Alberta Human Rights Commission.**
- Contact the **Advocate for Persons with Disabilities** for assistance.

## Q: I have been advised by my child's school that due to various factors, such as safety risks and cost, that my child will not be permitted to participate in certain activities. Examples of these activities include using the school playground and attending school trips. What can I do?

**A:** Your child's school is obligated to accommodate your child to the point of undue hardship, both in the classroom and throughout their school activities. These accommodations should ensure integration and full participation. School trips and playground use are essential for your

child's overall development, and they should not be excluded due to their sight loss. Arrange a meeting with the school to explore accommodations that will ensure that your child has an equal level of access to the education being offered to all children.

If cost is the main obstacle, suggest fundraising or exploring funding options to finance **playground modifications** aimed at creating a more inclusive space.

### Q: As a high school student with sight loss, I struggle to find reasonable accommodations. Sometimes, I am given the wrong accommodations. For example, receiving large print when I need braille. What can I do?

**A:** Discuss the situation with a parent or guardian or consider it an opportunity for self-advocacy. Self advocacy refers to the expression of one's own interests, needs, and rights. Schedule a meeting with officials from your school to fully communicate your specific needs and explain why the accommodations you have been receiving are not enough. If you already have an **individualized program plan (IPP)**, ensure that it is being followed and accurately represents your needs in the classroom. If you do not already have an IPP, consider putting one in place to formalize your accommodations. You are entitled to receive accommodations that adequately address your educational needs.

## Applying to Post-Secondary Programs

### Q: I applied to several private colleges but was denied admission due to my sight loss. I was told by these institutions that they had never had a student with a disability like mine, and that they did not know how to accommodate me. What can I do?

**A:** Both private and public post-secondary institutions have a duty to take reasonable steps to accommodate individuals to the point of undue hardship. This includes accommodation in all aspects of the educational environment, including throughout the admissions process. It is discriminatory to deny access to a student due to their disability and to use lack of knowledge about accommodations as an excuse is not valid.

You may want to consider making a complaint to the **Alberta Human Rights Commission** or reaching out to the **Advocate for Persons with Disabilities** for more assistance.

# Accommodations while in Post-Secondary Education

## Q: I have been accepted to a post-secondary institution, but I'm uncertain about what steps I need to take to have my sight loss accommodated. What can I do?

**A:** Like elementary and secondary schools, post-secondary institutions have a duty to accommodate students' disabilities to the point of undue hardship.
Unlike elementary and secondary schools, however, post-secondary institutions will not review your educational process and perform assessments to see if you need accommodation. Post-secondary students carry more responsibility to advocate for themselves to ensure they receive the accommodation they need.

It is important to be proactive. Most post-secondary institutions have an accessibility services department or provide accessibility services through a student services department. You may consider contacting the appropriate department as soon as possible, and as early as when you accept an offer of admission.

When you inform your postsecondary institution of your disability, it triggers their legal duty to provide you with accommodations, to the point of undue hardship. Your institution may ask for medical documentation about your disability. While they have a right to ask for this information, you only need to provide information that explains your need for accommodations. You are not required to tell them your exact diagnosis, and you are not required to provide information that is not related to your need for accommodations.

It's important to remember that this is a collaborative process. As a student requesting an accommodation, you have a duty to work closely with the post-secondary institution to ensure that the accommodations are sufficient and that they are implemented in a timely manner.

**Self-Advocacy Tips for Post-Secondary Students**
Here are some helpful tips to keep in mind when advocating for yourself in a postsecondary setting:

- You are expected to know what kinds of accommodations you require to receive an equal education to your peers.
- Every publicly funded post-secondary institution in Alberta has a Disability Services Office (DSO). Contact the DSO at the post-secondary institutions you are considering, before you apply. Ask about:
    - accommodations, services and resources they provide to help students with disabilities
    - how to access assistive technology, services, or accommodations that may be available

    - resources to help you determine if the program you're applying for is a good fit
    - next steps

  You can also ask to meet with a disability advisor to discuss any questions you may have, in more detail.

- After you enroll, connect with your post-secondary institution's DSO before your program start date. Ask to meet with a disability advisor to work on your unique plan for accommodations.
- Post-secondary institutions that are not publicly funded may not have a Disability Services Office. Contact the student services office to see what supports and funding opportunities exist.
- Emailing or introducing yourself to your instructors in advance of the class start date can help make the class accessible from the start.
- If you need the course materials to be adapted or transcribed, be proactive. Determine what materials you'll need well in advance of the start date and coordinate transcription services as soon as possible.

## Q: Despite my requests, my post-secondary institution has not provided me with the accommodations that I require. What can I do?

**A:** Under the **Alberta Human Rights Act**, educational institutions have a legal duty to provide reasonable accommodations for your disability up to the point of undue hardship.

Read more from the Alberta Human Rights Commission about the **duty to accommodate students in post-secondary.**

Many post-secondary institutions have an accessibility services department that should be able to assist you with securing accommodations.

However, if you are still not receiving appropriate accommodations in a timely manner, you may want to meet in person with your instructor or the department/faculty administration to discuss your concerns. Consider reiterating your need with a written request. If the issue remains unresolved, follow up with the postsecondary institution's internal supervisory body.

Keep in mind that in situations where there are delays with implementing the most appropriate accommodation, post-secondary institutions still have a duty to provide you with a temporary or "next best" accommodation to ensure your educational needs are met in the interim.

If you have exhausted the options outlined above, and the institution continues to take the position that they cannot accommodate your disability in your program, you may wish to consult with a lawyer to obtain independent legal advice regarding your specific circumstances. You may also find it helpful to contact the **Alberta Human Rights Commission** for information and direction.

## Q: My post-secondary institution has advised me that I am required to secure and pay for my own accommodations. Is this true?

**A:** Post-secondary institutions are not required to pay for accommodations; however, they are able to provide you with resources and assistance in accessing funding opportunities to help pay for the accommodations.

Every publicly funded post-secondary institution in Alberta has a Disability Services Office (DSO) that provides students with information, accommodations, services and supports to access loans and grant funding. Collaborating with the DSO will provide you with support in securing accommodations and ensuring your access to these accommodations throughout your time at the institution.

Post-secondary institutions that are not publicly funded may not have a DSO. Contact the student services office to see what supports and funding opportunities exist.
Learn more on the Government of Alberta's **Resources for Students with Disabilities webpage**.

## Q: My professor is unwilling to comply with the plan for accommodations that has been put in place for me by my post-secondary institution. For example, they will not meet with one-on-one unless I am accompanied by an Education Assistant, and will not provide me with copies of the PowerPoint presentations they use during lectures. What can I do?

**A:** Every publicly funded post-secondary institution in Alberta has a Disability Services Office (DSO) that provides students with information, accommodations, services and supports to access loans and grant funding. If your post-secondary institution has (DSO), the first step would be to set up a meeting with them. They will be able to guide you through the process of obtaining the correct accommodations or submitting an appeal if necessary. The DSO may contact your professor who is unwilling to comply, but should not do so without your consent.
If your post-secondary institution does not have a DSO, reach out to your institution's student services office or the dean of your faculty.

Read more from the Alberta Human Rights Commission about the **duty to accommodate students in post-secondary.**

## Q: My post-secondary institution has advised me that it cannot accommodate certain aspects of my degree/diploma (such as a practicum). I have been told that I have to switch programs/placements or leave the institution. What can I do?

**A:** Once you've made your disability, and need for accommodation, known to your post-secondary institution, the institution has a duty to identify and remove barriers that prevent people with disabilities from receiving the same quality of education as people without disabilities.

Generally speaking, the institution cannot prevent you from completing your program because you have a disability.

If you have exhausted the options outlined above, and the institution continues to take the position that they cannot accommodate your disability in your program, you may wish to consult with a lawyer to get independent legal advice regarding your specific circumstances. You may also find it helpful to contact the **Alberta Human Rights Commission** for information and direction.

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