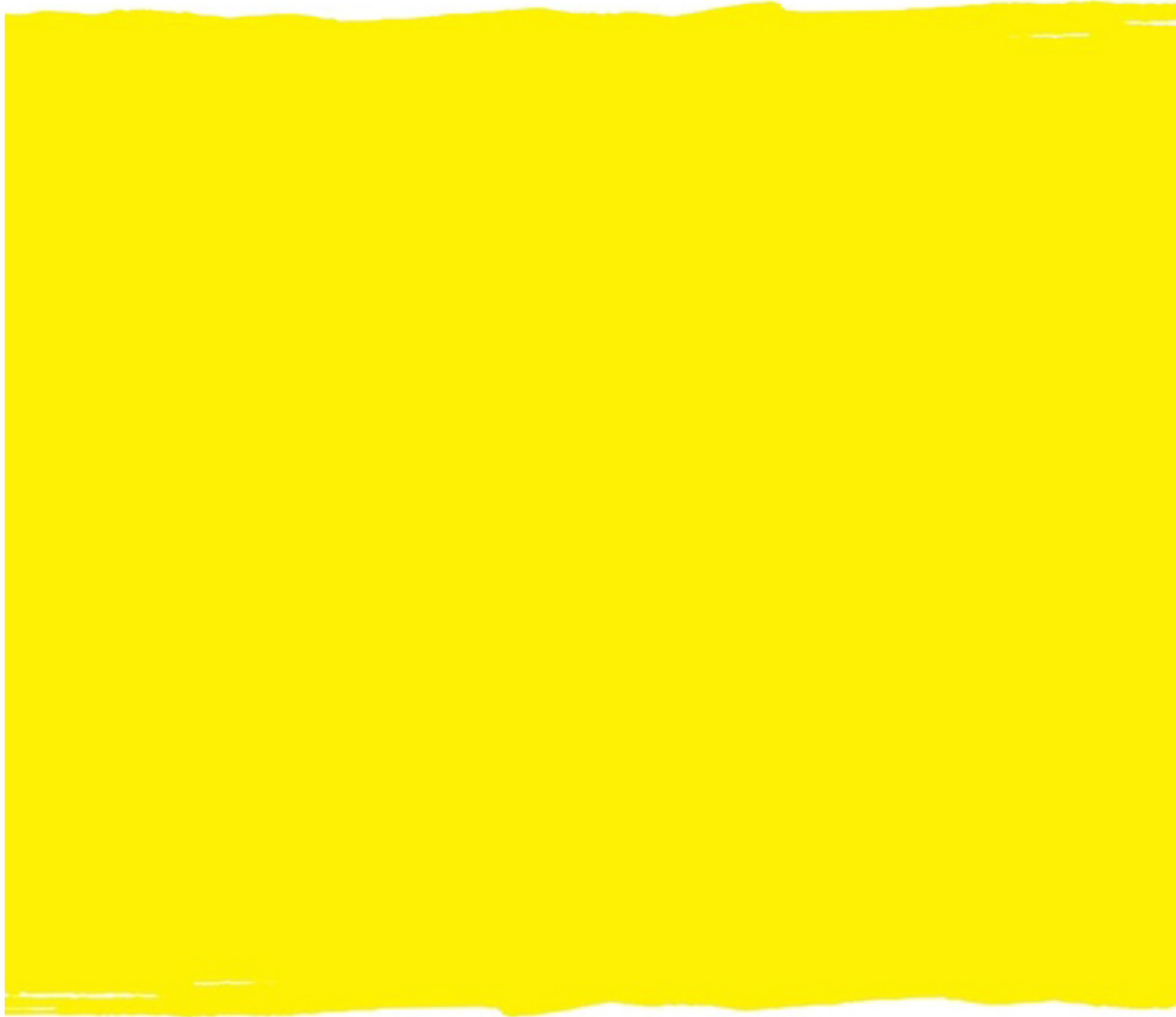


# Education

**Know Your Rights – Legal Information Handbook**



## 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

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To learn more about the Know Your Rights project, please visit [cnib.ca/KnowYourRights](http://cnib.ca/KnowYourRights)

## Table of Contents

<b>My Legal Rights .....</b>	<b>4</b>
Q: What legal rights do I have when it comes to education in Manitoba? .....	4
Q: Where do my legal rights come from? .....	5
Q: Who must comply with Saskatchewan laws related to education? .....	7
Q: What can I do to enforce my legal rights? .....	7
<b>Common Scenarios .....</b>	<b>9</b>
Q: My child will be starting school. What can I do to ensure my child's sight loss is accommodated? .....	9
Q: The school division implemented an accommodation plan to support my child's sight loss. I don't agree with the school division's approach to accommodations. What can I do? .....	10
Q: I have been advised by my child's school that due to various factors (such as safety and cost), my child cannot participate in certain activities (such as school trips, playground use, etc.) I would like for my child to be able to participate in these activities. What can I do? .....	11
Q: My child's school has sent me written information that is not in an accessible format. Due to my sight loss, I'm unable to read the communication. What can I do? .....	11
Q: I've been accepted to a post-secondary institution, but I'm uncertain about what steps I need to take to have my sight loss accommodated. ....	12
Q: Are educational institutions in Manitoba required to make course materials (such as textbooks, presentation notes, handouts, online discussion boards, etc.) accessible to people with sight loss? .....	13
Q: Despite my requests, I have not received the accommodations that I require. What can I do? .....	14
Q: My post-secondary institution has advised me that it cannot accommodate certain aspects of my degree/diploma (such a practicum). I have been told that I have to switch programs/placements or leave the institution. What can I do? .....	14
<b>Resources .....</b>	<b>15</b>

# My Legal Rights

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

**A:** Under Manitoba 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, which includes:

- Receiving an education equal to your peers without discrimination because of your disability.
- Receiving accommodations for your disability from your educational institution up to the point of undue hardship.
- The right to challenge administrative decisions made about you by schools, school boards and other educational institutions.
- The right to receive appropriate special education programs and services at no additional cost.

## 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 need to access 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 don't 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 the following factors:

- Whether the cost of the accommodation is so high that it would significantly interfere with the operation of the institution.
- Whether the accommodation would create serious health and safety risks.
- Whether there are no other accommodations that would allow the student to meet the necessary academic requirements.

- Whether the student or parent or guardian have participated in the accommodation process.

Even if an educational institution 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.

## The Rights of Parents or Guardians

- Parents or guardians with disabilities have the right to receive communications from schools, such as parent guides, report cards, consent forms, schedules, or newsletters in accessible formats.
- 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 or guardians of a child with disabilities have the right to access their child's school record, on request.

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

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

- Manitoba's [Human Rights Code](#)
  - The Human Rights Code applies to all services, benefits, and programs available to the public, including education.
  - The Human Rights Code prohibits discrimination based on physical or mental disability or related circumstances (such as using a service animal).
  - The Human Rights Code also requires reasonable accommodations to be made for people with disabilities.
- The [Accessibility for Manitobans Act](#)
  - The Accessibility for Manitobans Act requires the government of Manitoba to create Accessibility Standards that focus on five key areas of daily living. The Accessibility Standards set out detailed minimum accessibility requirements in the following contexts:

- Customer Service
- Employment
- Information and Communications
- Design of Public Spaces
- Transportation
- The [Accessibility for Manitobans Act](#) applies to most organizations in Manitoba, and specifically applies to **public school divisions and districts**.
- Manitoba's [Public Schools Act](#)
  - Sets out rules by which public schools in Manitoba must operate.
  - Requires that public school board policies must be consistent with the principles of [Manitoba's Humans Rights Code](#).
- The [Appropriate Educational Programming Regulation](#), which is established under the **Public Schools Act**, sets out requirements regarding the accommodation needs of all students, including:
  - A principal must ensure that a student is referred for a specialized assessment if it cannot be determined why a student is having difficulty meeting educational outcomes.
  - The student's parents must be informed before they are referred for a specialized assessment, and no interviewing or testing may take place without the parents' consent.
  - If, after a specialized assessment, there are specific recommendations regarding what the student requires to meet learning outcomes, a principal must ensure that an **Individual Education Plan ("IEP")** is prepared for the student.
    - The principal must ensure that the student's parents, and the student, if appropriate, are given the opportunity to prepare and update the IEP.

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

- [Manitoba's Human Rights Code](#)

- [The Advanced Education Administration Act](#)
- [The Student Aid Act](#)
- [The Sexual Violence Awareness and Prevention Act](#)

## **Q: Who must comply with Saskatchewan laws related to education?**

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

- People within the education system, such as deans, professors, principals, vice-principals, teachers, other school officials, parents/guardians, and students
- Educational institutions, including:
  - Early childhood pre-schools, such as day cares
  - Primary and secondary schools (public and private) including French-language schools

While the [Public Schools Act](#) does not apply to private primary and secondary schools, Manitoba's [Human Rights Code](#) applies to all private schools and can take priority over any policies or procedures that private schools create.

- School Boards
- Universities and colleges including private colleges, trade schools, and professional accreditation courses
- Government ministries, such as the [Department of Education and Early Childhood Learning](#)
- Professional bodies such as the [Manitoba Teachers' Society](#)

## **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 steps you can take to challenge the discrimination.

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.

For more resources on self-advocacy, please visit the **Self-Advocacy** section of the [Know Your Rights website](#).

You may wish to consider the following options:

- Wherever possible, disputes should be resolved as close to the local (or school) level as possible.

To assist parents and educators, Manitoba Education and Early Childhood Learning has developed a resource for problem solving and informal dispute resolution for schools, families, and communities, called [Working Together: A Guide to Positive Problem Solving for Schools, Families and Communities](#)

- The **Public Schools Act** requires that a dispute resolution process be developed for use when there is a disagreement about the appropriateness of the educational programming or placement being provided by the school board to a student who has an Individualized Educational Plan. The formal resolution process has been developed for use at the provincial level. Further information about the formal resolution process is available as follows:
  - [Working Together: A Parent's Guide to Formal Dispute Resolution](#)
  - [Appropriate Educational Programming in Manitoba: A Formal Dispute Resolution Process](#)
  - [Manitoba Association of Parent Councils](#)
  - [Formal Dispute Resolution FAQ](#)
- You may wish to contact the [Manitoba Ombudsman](#), and make a complaint. The Manitoba Ombudsman can consider whether an individual has been unfairly treated by the Department of Education and Early Childhood Learning, or the Department of Advanced Education, Skills and Immigration.
- Contact the [Manitoba Advocate for Children and Youth](#) for assistance.
- Contact the [Manitoba Human Rights Commission](#).

Finally, you may wish to consult with a lawyer to confirm which of these steps would be best for your specific circumstances.



# 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.

## Elementary and Secondary School

**Q: My child will be starting school. What can I do to ensure my child's sight loss is accommodated?**

**A:** All children in Manitoba have the right to receive equal treatment with respect to education without discrimination due to disability. This includes the right to receive meaningful access to education, and to experience the benefits of education in a manner equal to other students.

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 about your child's disability as is necessary to establish your child's need for accommodation, and to ensure that appropriate accommodations are provided. 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.

Public schools in Manitoba have established processes to ensure children with disabilities are provided with individual accommodations that allow for the child's full participation and integration in the classroom environment. As outlined above:

- A principal must ensure that a student is referred for a specialized assessment if it cannot be determined why a student is having difficulty meeting educational outcomes.
- The student's parents must be informed before they are referred for a specialized assessment, and no interviewing or testing may take place without the parents' consent.

- If, after a specialized assessment, there are specific recommendations regarding what the student requires to meet learning outcomes, a principal must ensure that an **Individual Education Plan (“IEP”)** is prepared for the student.
- The principal must ensure that the student’s parents, and the student, if appropriate, are given the opportunity to prepare and update the IEP.

Examples of accommodations that may be included in your child’s IEP include:

- Large print textbooks
- Assistive technology and/or devices
- Braille literacy resources
- Modifications to the curriculum and provincial exams
- Changes to the built environment of the school

### **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.

**Q: The school division implemented an accommodation plan to support my child's sight loss. I don't agree with the school division's approach to accommodations. What can I do?**

**A:** If the school or school division 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.

To begin, consider sharing your concerns with your child’s teacher and principal, and articulate the specific reasons why the plan is not suitable for your child.

If the response from the school is not satisfactory, the issue should then be reported to the school division's superintendent. The division's superintendent may work with you to resolve the issue informally. If this doesn't work, you will likely need to make a formal appeal.

Please refer to the section of this handbook, titled "**What can I do to enforce my legal rights**" for more information on informal and formal dispute resolution processes available to parents and students.

**Q: I have been advised by my child's school that due to various factors (such as safety and cost), my child cannot participate in certain activities (such as school trips, playground use, etc.) I would like for my child to be able to participate in these activities. What can I do?**

**A:** Schools must ensure school-related activities reasonably accommodate the needs of all students. However, what is reasonable may depend on the circumstances. There may also be different thresholds to meet depending on the type of activity, and how connected it is to the school.

For example, a class field trip taken as part of a lesson plan may require a higher duty of accommodation than an extracurricular activity taking place on school property.

These situations are highly fact dependent. Consequently, 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 Manitoba Human Rights Commission for information and direction.

## **Parents with Sight Loss**

**Q: My child's school has sent me written information that is not in an accessible format. Due to my sight loss, I'm unable to read the communication. 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

## **Post-secondary Programs**

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

**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 reasonable accommodations. 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 selecting appropriate accommodations is a collaborative process. As a student requesting an accommodation, you have a duty to work with your educational institution to help them select an appropriate accommodation. You will need to work closely with the post-secondary institution to ensure 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:

- Inform the postsecondary institution about your need for accommodations as early as possible to ensure there's enough time to develop and implement the most appropriate accommodations.
- You are expected to know what kinds of accommodations you require to receive an equal education to your peers.
- 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.
- Many postsecondary institutions have accessibility services departments that coordinate accommodations for students with accessibility needs. These departments can also assist you by connecting you with other resources.

**Q: Are educational institutions in Manitoba required to make course materials (such as textbooks, presentation notes, handouts, online discussion boards, etc.) accessible to people with sight loss?**

**A:** Generally, yes. Once the institution is aware of your disability and need for accommodation, it has a duty to identify and remove barriers that prevent people with disabilities from receiving the same quality of education as people without disabilities.

Also, making course materials accessible can also form part of your specific accessibility plan, which is agreed-to by the institution.

**Q: Despite my requests, I have not received the accommodations that I require. What can I do?**

**A:** Under Manitoba's [Human Rights Code](#), post-secondary institutions have a legal duty to provide reasonable accommodations for your disability to the point of undue hardship.

Most post-secondary institutions have an accessibility services department or provide accessibility services through a student services department. If you have not been able to receive the accommodations you need through these departments, you may wish to contact your instructor and/or faculty/department head to discuss the issue further. If you are still not able to resolve the issue, you may need to contact your institution's supervisory body.

It is generally a good idea to send a written request, when possible. This can help establish a timeline, which can be helpful if you continue to have problems receiving accommodations. While some delay may be expected for larger accommodations, your institution still has a duty to provide you with the best accommodations possible in the meantime to ensure your educational needs are met in the interim.

**Q: My post-secondary institution has advised me that it cannot accommodate certain aspects of my degree/diploma (such 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 obtain independent legal advice regarding your specific circumstances. You may also find it helpful to contact the [Manitoba Human Rights Commission](#) for information and direction.

# Resources

## Legal Resources

### [Manitoba Human Rights Commission](#)

The **Manitoba Human Rights Commission** is an independent office of the Government of Manitoba that is responsible for receiving and investigating complaints of discrimination to determine if the [Human Rights Code](#) has been contravened.

For information on **filing a complaint** with the Commission, the Commission's website provides direction on [how to start the process](#) and a [Guide to Filing a Complaint](#).

The Commission also educates the public about human rights through seminars and workshops; and, prepares and distributes [guidelines](#) and [fact sheets](#) to assist the public in understanding the [Code](#).

### [The Law Society of Manitoba](#)

The **Law Society of Manitoba** oversees the legal professional in Manitoba. The Law Society is the only body that is authorized to determine who may become a lawyer in the province, and is responsible for responding to [complaints](#) about lawyers. The Law Society also has a [Lawyer Lookup](#) tool that enables the public to search for lawyers.

### [Infojustice](#)

**Infojustice** is a legal information centre committed to promoting access to justice in French. By providing information, support and referral services, Infojustice helps French-speaking individuals understand and respond to the various legal situations they face in their everyday lives.

Infojustice provides the following services:

1. consultations via telephone and email, or in person if appropriate,
2. courthouse or tribunal accompaniment,
3. referrals to relevant organizations and resources, and

4. referrals to French-speaking lawyers.

For contact information, [visit the Infojustice website](#).

## **Community Legal Education Association**

The **Community Legal Education Association (CLEA)** is a not-for-profit organization that provides legal information and education to Manitobans. CLEA develops programs and resources to help individuals better understand Manitoba's legal system, and how to resolve their legal issues.

CLEA can help members of the public by providing general legal information, suggesting resources, and telling people about different options for obtaining legal advice.

CLEA also operates the [Law Phone-In and Lawyer Referrals Program](#). Through this program, individuals can receive:

- legal information and advice,
- referrals to law-related agencies, and
- referrals to lawyers, when appropriate.

The Law Phone-In and Lawyer Referral Program allows Manitobans to call or email with legal questions, and staff lawyers will attempt to provide information, or connect them to a lawyer who can.

If you are referred to a lawyer through this program, your first consultation, up to half an hour will be free. This service is free and available to **all** Manitobans.

## **Legal Aid Manitoba**

**Legal Aid Manitoba** provides legal services to low-income Manitobans. To qualify for services from Legal Aid Manitoba:

- You must meet their [financial eligibility criteria](#); and
- Your case must have merit. To learn more about how Legal Aid Manitoba determines whether a case has merit, please refer to their [qualification criteria](#).



## **Public Interest Law Centre**

The **Public Interest Law Centre (PILC)** is an independent office of Legal Aid Manitoba. PILC represents clients at all levels of the court system; and, before boards, administrative tribunals and legislative committees.

PILC selects cases on the basis of social significance, legal merit and the availability of resources. Applications for public interest law cases will only be approved if:

- Funding is available to pursue the matter throughout the proceedings.
- There is a reasonable likelihood of success.
- The matter will impact a systemic issue in the law, or will impact a segment of the population of Manitoba.
- Clients meet Legal Aid Manitoba's financial eligibility criteria.

## **The University of Manitoba Community Law Centre**

The **University of Manitoba Community Law Centre** primarily handles [summary conviction criminal offences](#), but may also assist with Highway Traffic Act offences, small claims cases involving consumer problems, and Manitoba Public Insurance disputes.

## **Legal Help Centre**

The **Legal Help Centre (LHC)** provides legal information and assists self-represented litigants with certain non-urgent legal matters. LHC operates the following clinics:

- Drop-In Clinics
- Family Law Clinics
- Consumer Protection Clinics

To qualify:

- You must not be eligible for Legal Aid

- You must not already have a lawyer assisting you
- You must meet LHC's [financial eligibility guidelines](#)

## **[Accessibility for Manitobans Act Website](#)**

The **Accessibility for Manitobans Act website** offers a helpful overview of the Accessibility for Manitoba Act and Accessibility Standards.

## **[Manitoba Courts](#)**

The **Manitoba Courts** website provides general information about how Courts in Manitoba operate, and what to expect if you are attending Court. There is also a helpful resource on attending Court as a [self-represented person](#).

## **[Manitoba Law Reform Commission](#)**

The **Manitoba Law Reform Commission** is an independent law reform agency. Its role is to improve, modernize and reform the law and administration of justice in Manitoba.

Projects of law reform are initiated in response to the public, the legal profession, and Manitoba's Minister of Justice and Attorney General. The Commission carries out research and consultation and makes formal recommendations for law reform to the Minister of Justice and Attorney General.

[Publications](#) produced by the Commission, and Information about the [Commission's current projects](#), are available online.

## **Essential Non-Legal Resources**

### **[The Manitoba Ombudsman](#)**

The **Manitoba Ombudsman** is an independent office of the Legislative Assembly of Manitoba. The Ombudsman conducts independent, impartial and non-partisan investigations of complaints regarding the following issues:

- access to information and privacy matters,
- the fairness of government actions or decisions, and
- serious “wrongdoings” by the government.

Complaints may be related to any act, decision, recommendation, or omission relating to a matter of administration by any department or agency of the provincial or a municipal government.

For information on filing a complaint with the Manitoba Ombudsman, please refer to the information and [guidelines](#) outlined on the Ombudsman’s website.

## **Manitoba 211**

Manitoba 211 is a free, confidential 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 Manitoba. The service helps Manitobans who are looking to find the right community or social resource, but do not know where to start.

In addition to searching on the 211 Manitoba website, there are various ways for people to [contact](#) Manitoba 211, including calling 2-1-1 to talk with trained professionals to help identify the services that they need.

Services are grouped together into the following categories:

- [Emergency Resources](#)
- [Covid-19 Information](#)
- Food and Clothing
- Housing and Homelessness
- Health
- Mental Health
- Employment
- Newcomers
- Children and Parenting
- Youth

## **Manitoba Advocate for Children and Youth**

The Manitoba Advocate for Children and Youth is responsible for ensuring that government services adhere to their legal obligations to children and youth. Some of the functions performed by the Advocate for Children and Youth include:

- Advocating and providing support to children and youth in the areas of child welfare, adoption, mental health, disability, education, victim support, and youth justice
- Educating the public with outreach and presentations about the interests and wellbeing of children
- Providing referrals to other resources, where appropriate

## **National Educational Association of Disabled Students (“NEADS”)**

**National Educational Association of Disabled Students (“NEADS”)** is a national charity that advocates for full access to education and employment for post-secondary students with disabilities. Among many other resources, NEADS offers a [guide](#) on how to enhance accessibility of postsecondary institutions.

## **Library Services**

The [Centre for Equitable Library Access](#) and [National Network for Equitable Library Service](#) provide information about library services that are available to Canadians with print disabilities.

## **CNIB Programs**

We’re here to help – contact CNIB for more programs, 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 virtual program offerings on CNIB’s website.](#)

- [You can access a list and schedule of CNIB Manitoba's program offerings on CNIB Manitoba'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, people who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversation.
- [CNIB SmartLife](#)
  - 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 is 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 Advocacy Team](#)
  - The CNIB Advocacy Team can assist participants with advocating for themselves and understanding their rights. You can contact us at [advocacy@cnib.ca](mailto:advocacy@cnib.ca) if you have questions.
- [CNIB Guide Dogs](#)
  - CNIB Guide Dogs can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations to provide knowledge about the rights of guide dog users.

# Vision Loss Rehabilitation Canada

**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 vision loss. VLRC’s services are tailored to the unique needs and goals of each person they assist. Specifically, VLRC certified specialists provide a range of services that help individuals with vision loss lead more independent, active lives.

Contact information for VLRC’s Manitoba offices is available in the [“Locations” section of the VLRC website](#).

## Wayfinding

Wayfinding refers to technological tools that assist people who are blind, partially sighted or Deafblind 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.

