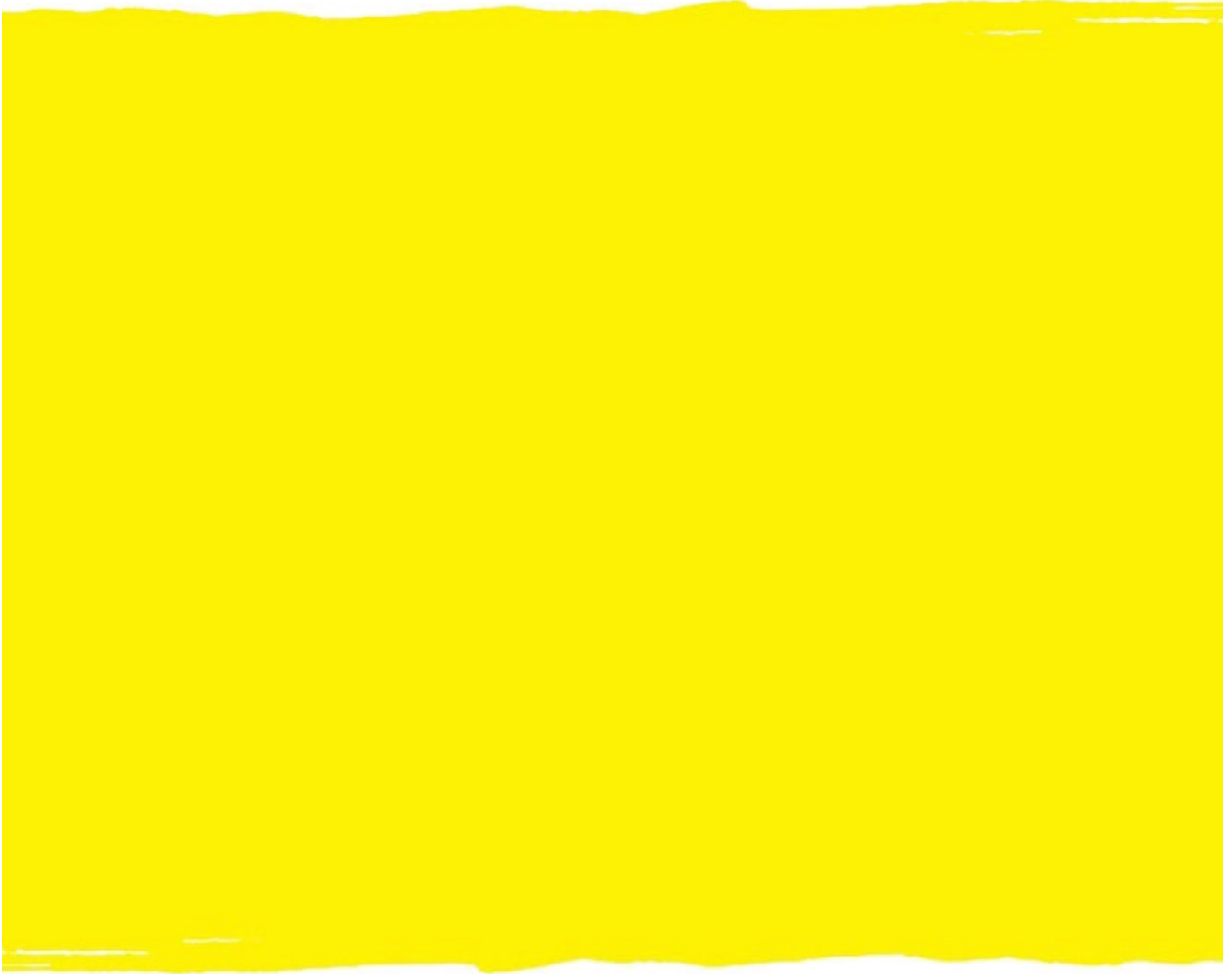


Employment

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

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My Legal Rights

Q: What legal rights do I have in Saskatchewan's employment sector?

A: Under Saskatchewan laws, people with disabilities have important legal rights when it comes to employment:

- You have the right to be treated equally in the workplace without discrimination because of your disability. This right includes the following:
 - The right to be treated without discrimination when your employer is determining your wages and benefits.
 - The right to be treated without discrimination when your employer is deciding on promotions.
 - The right to be treated without discrimination in the day-to-day operations of the workplace.
 - The right to be treated without discrimination if a decision is being made to terminate your employment.
- You have the right to receive accommodations for your disability from your employer, prospective employer, or employment agency up to the point of undue hardship.
 - Your employer must provide you with accommodations in a way that respects your dignity, meets your individual needs, and promotes your integration and full participation in the workplace.
 - Accommodations in the workplace include things like providing you with special equipment, modifying tasks, or creating new policies that enable you to succeed at your job, such as:
 - Technological supports
 - Modifications to the work environment
 - Customized work duties
 - Additional training.

- You have the right to challenge employment practices that you believe are based on unlawful discrimination.
- You have the right to work in a healthy and safe work environment.

Duty to Accommodate & Undue Hardship

An employer's "**duty to accommodate**" means that they are legally required to provide the supports you need to succeed in the workplace. This will look different in every situation.

The duty to accommodate is limited. This limitation is known as "**undue hardship**". An accommodation can only be considered an undue hardship if the employer has done everything reasonably possible to accommodate your disability. It is accepted that some hardship will occur, and will only be considered **undue hardship** in the following circumstances:

- The employee has been accommodated but is still unable to perform the job.
- The accommodation would threaten the proper operation of the business. An accommodation may be found to threaten the proper operation of a business if it:
 - is so expensive that the financial cost is unbearable
 - causes health and safety risks
 - causes considerable disruption to business
 - interferes with the rights of others

It is important to note that it is not enough for an employer to **simply claim** undue hardship. An employer **must show clear evidence** of undue hardship.

Alongside the right to reasonable accommodation, employees also have responsibilities. These include:

- telling an employer when an accommodation is required
- assisting your employer in putting accommodation in place
- not turning down a reasonable proposal for accommodation

- providing medical or other information that justifies the request for accommodation

Bona Fide Occupational Requirement

There is an important exception to an employer's legal duty to accommodate you.

Employers do not have a legal duty to accommodate you if you are unable to meet a **bona fide** ("in good faith") **occupational requirement** of a job because of your disability. What this means is that if a discriminatory policy, standard or rule is essential to performing the requirements of a job, then it may be permitted.

Here's an example of a bona fide occupational requirement:

For the job of an airplane pilot, a certain degree of sight is an essential requirement to perform the work safely. If someone can't meet this requirement because of their disability, an employer does not have a legal duty to reasonably accommodate them.

If you are uncertain as to whether a job qualification is *bona fide*, you should consider consulting with a lawyer who practices employment or human rights law to see what options may be available to you.

To learn more about bona fide occupational requirements, visit the [Saskatchewan Human Rights Commission's website](#).

Q: Do I have these legal rights even when I'm looking for work or when I'm leaving a job?

A: Yes. You have the legal rights explained above through all stages of employment, whether you are:

- looking for work – for example, responding to job advertisements, attending interviews, using employment agencies, or completing an application form;
- at work – for example, interacting with colleagues, clients, or customers; or
- leaving work – for example, changing jobs or being laid off.

Q: Where do my legal rights come from?

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

- The [Saskatchewan Human Rights Code](#), which prohibits discrimination based on disability in most areas of public life, including in the workplace.
- The [Saskatchewan Employment Act](#), which establishes the minimum standards that most employers must comply with, creates safety standards within the workplace and creates the rules about unions and collective bargaining.

Q: Who must comply with Saskatchewan's employment and human rights laws?

A: The [Saskatchewan Human Rights Code](#) and the [Saskatchewan Employment Act](#) apply to all employees and employers in Saskatchewan, except those companies and employees falling under federal jurisdiction, such as telecommunications, airlines, postal services and the federal government and its boards and agencies.

Employees and employers operating business that is under provincial jurisdiction must comply with Saskatchewan's human rights and employment laws. This includes:

- Employees
- Employers, including prospective employers, and employment agencies, both for-profit and not-for-profit
- Independent contractors, unions, trade unions, self-governing professions, and other occupational associations
- The Saskatchewan government and its boards and agencies

Your legal rights protect you in most situations, such as when you are dealing with:

- clients and customers
- employers, prospective employers, or employment agencies
- trade unions, occupational associations, or self-governing professions

Q: I work in a federally regulated industry. Do Saskatchewan employment and human rights laws apply to me?

A: If you work in a federally regulated industry, federal labour and human rights laws usually apply instead of Saskatchewan human rights and employment laws. Examples of federally regulated industries include banks, airlines and federal crown corporations. [Read the list of federally regulated industries and workplaces.](#)

There are federal laws that provide protections for workers in federally regulated industries including:

- The [Canada Labour Code](#), which creates safety standards and provides rules about unions and collective bargaining.
- The [Canadian Human Rights Act](#), which prohibits discrimination on the grounds of disability in employment;

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

A: If you have experienced discrimination while looking for work or while working, there are things you can do 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.](#)

If your concerns can't be addressed through collaborative discussions, you should consider consulting with a lawyer who specializes in human rights or employment law to determine if any of the following options are appropriate:

- [Filing a complaint](#) with the [Employment Standards Division](#)
- Filing a complaint with the [Occupational Health and Safety Division](#).
- Filing a complaint with the [Saskatchewan Human Rights Commission](#).

Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to accessing employment opportunities and fulfilling their potential in the workplace.

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.

Looking for Work

Q: I'm looking for a volunteer position. Am I entitled to receive accommodations as a volunteer?

A: In general, yes. [Saskatchewan's Human Rights Code](#) applies to people who perform duties within a “work context”, which includes volunteers.

Most organizations that accept volunteers have a legal duty to provide them with reasonable accommodations for their disability, but not beyond the point of undue hardship.

Q: There's a requirement in a job advertisement that I can't meet because of my disability. Should I still consider applying for the job?

A: Sometimes job advertisements include “requirements” that are not essential to doing the job in a safe or effective way.

If you can't meet a requirement in a job advertisement because of your disability, and you believe that requirement is **not essential** to doing the job, then you should still consider applying for the job.

When a job advertisement includes a “requirement” that is **not essential** to doing the job safely or effectively, the employer is **not allowed to reject** your application on the basis that you could not meet that requirement. Here's an example:

Mary is looking for work. She is trained as an accountant, and she has sight loss which prevents her from driving.

Mary sees a job advertisement for an accountant position that is based in one office and does not require travel to other locations. The job advertisement includes a requirement that “all applicants must have a driver’s licence”.

In this example, the requirement that applicants must have a driver’s licence is not essential because it does not affect whether someone can do the job in a safe or effective way.

If Mary chooses to apply for this job, the employer is not allowed to reject her application on the basis that she doesn’t have a driver’s licence.

How can you tell which job requirements are “essential” and which are not?

It is not always easy to know because the law on this topic can be complex. Whenever you are in doubt, it’s important to get help from a lawyer who can apply the law to your specific situation.

Here’s an example of when it’s not 100% clear if a job requirement is essential:

Fara is looking for work. She is an experienced salesperson, and she has sight loss which prevents her from driving.

Fara sees a job advertisement for a sales associate position that will require frequent travel to different client locations. The job advertisement includes a requirement that “all applicants must have a driver’s licence”.

If most clients are located nearby, then Fara could take a taxi to meet clients. The cost of a local taxi will probably not cause **undue hardship** to the employer. In this case, the requirement that applicants must have a driver’s licence is **probably not essential** to the job.

However, if most clients are located far away, the cost of travelling by taxi to remote locations might create an undue hardship for the employer. In this case, the requirement that applicants must have a driver’s licence **could be essential** to the job.

Fara should consider getting help from a lawyer who can apply the law to her specific situation.

Q: A job posting is not in an accessible format. What can I do?

A: If you find a job posting in Saskatchewan that's not in an accessible format, you have the right to request the job posting be provided in an accessible format from the employer, as an accommodation for your disability.

By disclosing your disability and making a request for accommodation, you trigger the employer's legal duty to accommodate you up to the point of undue hardship.

If you don't want to disclose your disability to the employer before you apply for the job, you can ask a friend to make the request for you. You can also get help from a local community organization or CNIB.

Q: I got an interview, but I'm not sure when to disclose my sight loss to my prospective employer. What should I do?

A: You are not required to disclose your disability to your employer, but it may be a good idea to do so, depending on the situation.

There's no single "right answer" about whether you should disclose your disability to an employer and when you should do so. You need to consider the pros and cons depending on what you know about the job, the employer, the industry, and your own feelings.

That being said, it can be a good idea to disclose your disability before an interview to ensure that appropriate accommodations are provided to you during the interview. This is especially important if a written test or other type of formal evaluation is part of the interview process.

Other reasons to disclose your disability in advance of an interview may include:

- Ensuring you can frame your disability in a positive way that highlights your achievements
- Ensuring that the employer is not surprised
- Demonstrating that you are pro-active in finding solutions

There are also potential cons to disclosing your disability before an interview. For example, you may be worried that the employer could form misconceptions about you based on false stereotypes before you are able to meet them in-person.

Q: I had the qualifications and performed well during the interview, but I didn't get the job. I feel that I have been discriminated against because of my sight loss. What can I do?

A: Sometimes there are clear signs that you have been discriminated against during an interview process. For example:

- The employer asks intrusive and inappropriate questions
- The employer makes statements that are offensive or based on false stereotypes
- The employer says that they cannot hire you because of your sight loss

There are some questions that employers are prohibited from asking in an interview, such as questions about the nature or severity of your disability.

Employers **can** ask if you have a disability that would interfere with your ability to do the job. If you say yes to this question, they may ask about what duties you would have difficulty performing and the accommodations you would need.

When the signs of discrimination are not as clear, it can be harder to prove that you were discriminated against.

Before deciding what to do, it's important to understand how the law applies to your specific situation. You should consider consulting with a lawyer who specializes in human rights or employment issues to see if a complaint to the [Saskatchewan Human Rights Commission](#) is appropriate. A complaint may lead to a settlement of the matter or may lead to a formal investigation.

At Work

Q: Who should I disclose my disability to in the workplace?

A: It depends on the size of the employer and other types of organizations involved (for example, a union or a temporary placement agency). In a large company, you may want to speak with the human resources department, a workplace accessibility advisory committee, or a union

representative. In smaller workplaces, you may want to speak directly with your employer or supervisor.

Q: My sight loss is affecting my ability to do my job. What can I do?

A: Eventually, you will need to tell your employer how your disability is affecting your ability to perform job-related tasks. When you choose to disclose your disability to your employer, you will trigger their legal duty to accommodate you up to the point of undue hardship.

Before deciding what to do, it's important to understand how the law applies to your specific situation. You should consider consulting with a lawyer who specializes in human rights or employment issues

You may also contact [CNIB](#) to obtain information about how to develop a proposal for accommodation and receive support through the process. You may also wish to contact [Vision Loss Rehabilitation Saskatchewan](#) to obtain support on how to continue living independently and safely as your sight changes. You can learn more about Vision Loss Rehabilitation Saskatchewan by visiting their [Frequently Asked Questions page](#).

Consultation with a lawyer, together with services through [CNIB](#) and [Vision Loss Rehabilitation Saskatchewan](#), can ensure that you have a well-developed advocacy strategy when speaking with your employer.

Q: My employer has provided me with accommodations, but they aren't working. What can I do?

A: Eventually, you will need to tell your employer how your current accommodations are not providing you with the support you need to succeed in your job.

Your employer has a legal duty to accommodate you up to the point of undue hardship. It's important to remember that selecting an appropriate accommodation is a collaborative process. As an employee requesting an accommodation, you have a legal duty to collaborate with the employer to help them select an appropriate accommodation.

Your employer has the right to get enough information from you about your disability to select an appropriate accommodation. If the employer asks for medical documentation about your disability,

you should only provide the information that is necessary to explain your need for accommodations. You are not required to tell your employer your exact diagnosis. You are not required to give your employer information that is not related to your need for accommodations.

Before deciding what to do, it's important to understand how the law applies to your specific situation. You should consider consulting with a lawyer who specializes in human rights or employment issues

You may also contact [CNIB](#) to obtain information about how to develop a proposal for additional accommodation and receive support through the process. Consultation with a lawyer, together with services through [CNIB](#), can ensure that you have a well-developed advocacy strategy when speaking with your employer.

Q: Do I have to pay for my employment-related accommodations?

A: Your employer cannot make you pay for accommodations related to your disability. It is your employer's duty to accommodate you to the point of undue hardship and your employer is responsible for paying the costs of these accommodations.

Q: My employer has advised that due to another employee's allergies, I cannot have my guide dog in the workplace. What can I do?

A: Employees who are guide dog handlers have the right to access and fully participate in employment. Employers have a duty to accommodate employees with service animals up to the point of undue hardship.

Relationships in employment contexts often endure for extended periods of time. Individuals requiring accommodation of a guide dog in an employment context may, as a result, be required to produce a training certificate for their guide dog to confirm the specialized nature of their service animal.

Regarding whether the employee's allergies amount to undue hardship, the presence of the guide dog must present an **unreasonable risk** to the employee. Minor irritation, limited financial costs, or unsupported fears of property damage **do not** represent undue hardship.

In this scenario, an accommodation could include the following:

- Rearranging the physical workspace so the employee with allergies is far enough away from the guide dog to avoid an allergic reaction.
- Implementing enhanced cleaning protocol to remove potential allergens, such as dog hair.

Whether the accommodations would cause undue hardship depends on the particular case. If your employer refuses to make accommodations that could be made without undue hardship, you should consider consulting with a lawyer who specializes in human rights or employment issues, as you may wish to file a complaint with the [Saskatchewan Human Rights Commission](#).

Leaving Work

Q: I had to leave my job because my sight loss prevented me from performing my duties. What now?

A: If you believe you lost your job due to your sight loss, this may form the basis of a human rights complaint, and you may wish to contact the [Saskatchewan Human Rights Commission](#). If, however, your termination of employment is not linked to your disability, you may wish to file a complaint with the [Employment Services Division](#).

You should consider consulting with a lawyer who specializes in human rights or employment issues to determine how the law applies to the unique circumstances of your case.

Resources

Legal Services

[Public Legal Education Association of Saskatchewan \(PLEA\)](#)

PLEA is a non-profit, non-government, charitable organization which exists to educate, inform, and empower individuals through law-related education.

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

PLEA also provides free legal information on a variety of topics on its website, including [Human Rights](#).

[Pro Bono Law Saskatchewan \(PBLS\)](#)

PBLS is a non-profit, non-government organization that provides free legal advice to low-income individuals in Saskatchewan. PBLS operates and partners with 14 free legal clinics across Saskatchewan. PBLS tries to fill the gap of legal services between government funded legal aid and hiring a private lawyer.

[Community Legal Assistance Services for Saskatoon Inner City \(CLASSIC\)](#)

With a commitment to social justice, decolonization, and the dignity of all peoples, CLASSIC provides free legal services, programming and supports to people who experience poverty and injustice, including services in relation to human rights issues.

[Saskatchewan Legal Coaching and Unbundling Pilot Project](#)

This resource provides individuals with a lower cost alternative to full legal representation. Through this service, individuals receive limited legal services where you hire a lawyer to handle only part of your case or to do a specific task.

The Saskatchewan Human Rights Commission (SHRC)

The SHRC promotes human rights through public legal education and policy development. The SHRC has created [Policies and Guidelines](#) and [Information Sheets](#) on human rights topics.

For information on filing a complaint with the SHRC, refer to the “[Filing a Complaint](#)” section of the SHRC website.

The Canadian Human Rights Commission

The **Canadian Human Rights Commission** deals with complaints under the **Canadian Human Rights Act**. For **federally** regulated employment industries, you may be able to bring a complaint about discrimination based on disability to the [Canadian Human Rights Commission](#).

Accessibility Legislation for Saskatchewan

Saskatchewan is in the process of developing a set of laws that will cover accessibility in outside built spaces (such as parks, crosswalks, and parkades) and other key areas. Information about Saskatchewan’s progress in developing this legislation is available at the [Accessibility Legislation for Saskatchewan website](#).

Essential Non-Legal Services

Employment Standards

If you believe your employer isn’t meeting the employment standards set out in Part II of the **Saskatchewan Employment Act**, you can [file a complaint](#) with **Employment Standards**.

The complaint could involve a monetary claim for issues such as:

- not being paid regularly, correctly, or on time;
- overtime;
- public holiday pay; or,
- vacation pay.

The complaint could involve non-monetary issues such as:

- not getting a work schedule;
- discrimination;
- periods of rest; or,
- not receiving statements of earnings (pay stubs).

Workforce Development for People with Disabilities Program

The **Workforce Development for People with Disabilities Program** provides funding that helps people with disabilities prepare for, find, and keep a job. Funds are limited, and not all applications are approved. Program objectives, eligibility and how well you meet the criteria determine the level of support.

Ombudsman Saskatchewan

Ombudsman Saskatchewan takes complaints about provincial government ministries, agencies, Crown corporations and most health entities.

Ombudsman Saskatchewan also takes complaints about Saskatchewan cities, towns, villages, resort villages, rural municipalities, northern municipalities, and municipal council members.

You may contact **Ombudsman Saskatchewan** to discuss a concern, or [make a complaint](#), regarding any of the entities above.

SaskAbilities

SaskAbilities is a registered charity that is dedicated to providing programs and services to people experiencing disability in Saskatchewan. SaskAbilities has branches located in Regina, Saskatoon, Swift Current and Yorkton.

[Partners in Employment](#) is a division of SaskAbilities that works directly with employers and individuals with hidden or visible disabilities to create successful job opportunities.

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. As part of its effort to support full access to education and employment, NEADS has developed the following resources:

- A web portal for jobs called "[Breaking it Down](#)", which includes many resources, links, and articles for job seekers
- A booklet on the [Duty to Accommodate](#)

[March of Dimes Canada](#)

March of Dimes Canada is an organization that is dedicated to providing support to people with physical and other disabilities. It has developed a [guide](#) for employers to create more inclusive work environments that are designed to accommodate the needs of people with disabilities. This guide also includes statistics and myths about hiring people with disabilities.

[Conference Board of Canada](#)

Conference Board of Canada is a not-for-profit research organization. It maintains a hub of resources to support [accessible employment practices](#) in Canada.

[CNIB Programs](#)

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

Resources for Employees

- [Come to Work](#)
 - Connects job seekers who are blind or partially sighted with employers who want to discover the full potential of Canada's talent.
 - Offers job-readiness workshops and technology training.
- [CNIB Mentoring Program](#)
 - Provides job seekers and employees with skills and strategies to effectively engage employers.
 - Mentors answer your questions and share their firsthand experiences in the workplace.
- [CNIB Venture Zone](#)
 - Has resources and inspiration to help you succeed in your business venture.

- **[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 Saskatchewan's program offerings on **[CNIB Saskatchewan'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.
- **[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.

Resources for Employers

Blindness at Work has resources to help employers make the workplace more accessible:

- **Workplace accommodations**
 - Provides examples of tools and technologies that can be used to accommodate people with sight loss.
 - It also includes a link to some quick tips around creating an accessible workplace
- **Creating an inclusive workplace**
 - Provides simple tips about how to be comfortable and supportive of co-workers with sight loss
- **Hiring someone with sight loss**
 - Provides tips for employers around making the recruiting process (e.g., job advertisements, etc.) and interviews accessible to job candidates with sight loss
- **Come to Work**
 - Introduces employers to an innovative talent pool of Canadians who are blind or partially sighted and provides job seekers with work experience.

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 Saskatchewan offices is available in the **“Locations” section of the VLRC website**.

Other Services

SaskAbilities

SaskAbilities is a registered charity that is dedicated to providing programs and services to people experiencing disability in Saskatchewan. SaskAbilities has branches located in Regina, Saskatoon, Swift Current and Yorkton.

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.

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