

# Education

## Know Your Rights – Legal Information Handbook

June 2022

## Disclaimer

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

## Acknowledgements

Thank you to the [Law Foundation of Prince Edward Island](#) and [The Law Foundation of Ontario](#) for making the Know Your Rights – Prince Edwards Island Project possible. While financially supported by a grant from the Law Foundation of Prince Edward Island and a grant from The Law Foundation of Ontario's Access to Justice Fund, CNIB is solely responsible for all content.



Thank you also to the wonderful teams at McInnes Cooper and Pro Bono Students Canada for their dedication and provision of in-kind legal research and writing.



Thank you as well to the many individual volunteers who contributed to the development of this legal information handbook, particularly the Focus Group and Working Group participants.

To learn more about the Know Your Rights – Prince Edward Island Project, please visit our [Know Your Rights – Prince Edward Island webpage](#).

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## My Legal Rights

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

A: Under PEI laws, people with disabilities have important legal rights when it comes to education.

- You have the right to receive an education that is equal to your peers without discrimination because of disability.
- You have the right to receive accommodations for your disability from your educational institution up to the point of undue hardship.
- You have right to challenge administrative decisions made about you by schools, school boards and other educational institutions.
- You have 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 may still have a legal duty to provide you with an accommodation.

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

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

- PEI's [Human Rights Act](#), which prohibits discrimination based on disability in most areas of public life, including education.
- PEI's [Education Act](#) and [Private Schools Act](#)
  - Set out entitlement to education on the Island
  - Set out the obligations of teachers with regard to communication with parents; health and safety of students; and teaching responsibilities
  - Set out boards and bodies to facilitate education on the Island
- PEI's [University Act](#)
  - Sets out the establishment, powers, and governance of the University of PEI
- PEI's [Early Learning and Childcare Act](#)
  - Sets out the requirements, licensing and regulations for Early Learning and Childcare Centres
- PEI's [Holland College Act](#)
  - Sets out the establishment, powers, and governance of Holland College
- Common Law – Laws that are made by the decisions of Courts and Tribunals

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

**A:** Students and staff, schools, educational institutions, and the PEI government are required to comply with PEI'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
  - School Boards
- Universities and colleges including private colleges, trade schools, and professional accreditation courses
- Government ministries, such as the Department of Education and Lifelong Learning

## **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 and Essential Legal Information Handbook on CNIB's [Know Your Rights – Prince Edward Island](#) webpage.

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

- File a [complaint](#) with the [PEI Human Rights Commission](#).
- File a complaint with the [PEI Ombudsperson](#). The PEI Ombudsperson can consider whether an individual has been unfairly treated by (among other organizations), educational institutions that are overseen by the Department of Education and Lifelong Learning.

Before making a complaint to the PEI Ombudsperson, you should first try to resolve your issue through any complaint process offered by the organization involved

- A claim before a PEI Court.

You can also contact the [PEI Human Rights Commission](#) by phone at 902-368-4180.

Commission staff cannot offer opinions on the outcome of your complaint, nor can they advise as to whether it will be successful, however, they can provide information as to what the law states and how it may apply to a given situation.

Additionally, you may want to consider contacting the [PEI Child and Youth Advocate](#) for assistance.

## 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 PEI 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.

When preparing to register your child for school, it's important to plan ahead. You may wish to contact the school in advance of enrollment to discuss the ways in which your child's disability can be accommodated.

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.

Examples of accommodations may include:

- Receiving school materials in an accessible format
- The use of accessibility equipment (e.g. text to speech technology)
- The use of a guide dog
- Modifications to the curriculum
- Changes to the built environment (e.g. coloured ribbons or textured flooring to identify staircases, etc.)

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.

For additional support, consider contacting CNIB or [Atlantic Provinces Special Education Authority \(APSEA\)](#), an inter-provincial Atlantic Canada agency that provides free support to students, ages 0-21, who have hearing loss and/or sight loss.

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

**A:** If the school proposes an accommodation plan 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 board. The board may work with you to resolve the issue informally.

For more resources on self-advocacy, visit the Self-Advocacy and Essential Legal Information section of the [Know Your Rights – Prince Edward Island](#) webpage. You can also contact CNIB and/or [Atlantic Provinces Special Education Authority \(APSEA\)](#) for additional support.

If your concerns remain unresolved, consider contacting a lawyer who practices education or human rights to see what [options](#) may be available to you.

**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:** Your child's school is legally required to reasonably accommodate your child's sight loss up to the point of undue hardship. This legal duty extends beyond the regular classroom to other school-related activities and opportunities that are available to your child's peers, such as gym class and the playground.

If your child is being barred from participating in physical or other school-related activities because of their sight loss, you should first try to resolve your concerns by speaking with your child's teacher, vice-principal or principal. 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. Such discussions will enable you to dispel any stereotypes or false information they might have about children with sight loss participating in physical activities, etc.

When discussing accommodations, you can politely remind school officials that they are legally obligated to accommodate your child and that one of the key principles of accommodation is inclusion.

For more resources on self-advocacy, visit the Self-Advocacy and Essential Legal Information section of the [Know Your Rights – Prince Edward Island](#) webpage. You can also contact CNIB and/or [Atlantic Provinces Special Education Authority \(APSEA\)](#) for additional support.

If your issue remains unresolved, consider consulting with a lawyer who practices human rights or education law to see what [options](#) may be available to you.

## 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, including the [University of Prince Edward Island](#), 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:

- If you are 21 or younger, consider informing the [Atlantic Provinces Special Education Authority \(APSEA\)](#) of your plans. If you meet APSEA's [eligibility criteria](#), APSEA can be helpful in facilitating your transition from high school to a post-secondary institution.
- 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 PEI 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 accommodate those disabilities and to ensure that you receive the same quality of education as people without disabilities.

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

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

Many postsecondary institutions have an Accessibility Services department that should be able to assist you with securing accommodations. If you find, however, that 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 for accommodations with a written request. If the issue remains unresolved, consider following-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, postsecondary 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.

For more resources on self-advocacy, visit the Self-Advocacy and Essential Legal Information section of the [Know Your Rights – Prince Edward Island](#) webpage. You can also contact CNIB and/or [Atlantic Provinces Special Education Authority \(APSEA\)](#) for additional support.

If your matter remains unresolved, consider consulting with a lawyer who practices human rights or education law about the [options](#) that may be available to you.

**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 accommodate those with disabilities and ensure they receive 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, however, the institution does not have to accommodate you if such an accommodation would compromise the integrity or purpose of the degree/diploma program. For example, if you were unable to hold a license because of your sight loss, but operating a motor vehicle was an important part of your career training, an accommodation may not be reasonable.

If you are advised by your post-secondary institution that it cannot accommodate you, consider consulting with a lawyer who practices education or human rights laws to discuss the [options](#) that might be available to you.

You can also contact CNIB and/or [Atlantic Provinces Special Education Authority \(APSEA\)](#) for additional support.

## Resources

### Legal Resources

[PEI Human Rights Commission](#)

[PEI Human Rights Commission](#)

The **PEI Human Rights Commission** is an independent office of the government of PEI that is responsible for receiving and investigating complaints of discrimination to determine if PEI's [Human Rights Act](#) has been contravened.

Before [filing a complaint](#) with the Commission, the Commission's website suggests you first read their [guide for making complaints](#)

The Commission also educates the public about human rights through seminars and workshops; and, prepares and distributes [Fact Sheets](#) to assist the public in understanding PEI's Human Rights Act.

You can contact the PEI Human Rights Commission by phone at 902-368-4180. Commission staff cannot offer opinions on the outcome of your complaint, nor can they advise as to whether it will be successful, however, they can provide information as to what the law states and how it may apply to a given situation.

## **The Law Society of PEI**

The **Law Society of PEI** oversees the legal profession in PEI. 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 [find a lawyer tool](#) that enables the public to search for lawyers.

## **Community Legal Information (CLI)**

The **Community Legal Information (CLI)** is a not-for-profit organization that provides legal information and education to residents of PEI. CLI develops programs and resources to help individuals better understand PEI's legal system, and how to resolve their legal issues.

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

CLI also operates the [Law Inquiry Line](#) in addition to offering [lawyer referrals](#). Individuals who contact CLI can receive:

- legal information,
- referrals to law-related agencies, and
- referrals to lawyers, when appropriate. Individuals who contact the Lawyer Referral Service will receive a referral to a lawyer, who will provide a 45-minute consult at a cost of \$25.00.

CLI can be contacted [through its website](#) or by telephone at 902-892-0853 or 1-800-240-9798.

## **Legal Aid PEI**

**Legal Aid PEI** provides legal services to low-income PEI residents in the areas of criminal law, family law, and some civil law matters, including child protection law, involuntary hospitalization under mental health laws, guardianship, and adult protection. Depending on the availability of resources, some assistance may be offered in other civil law areas as well.

When determining whether individuals are eligible for Legal Aid services, Legal Aid PEI considers several factors, including:

- Financial eligibility (which varies, depending on income and family size),
- Urgency and seriousness of the legal needs,
- Coverage and resources of the Legal Aid Program, and
- The individual's ability to obtain legal assistance if Legal Aid is refused.

## **PEI Supreme Courts**

The **PEI Supreme Courts** website provides general information about how Courts in PEI operate, and what to expect if you are attending Court.

It also provides information about the [Pro Bono Legal Advice Clinic \(for Self-Represented Litigants\) Prince Edward Island](#). The Pro Bono Legal Advice Clinic is a free-of-charge legal clinic for self-represented individuals whose family or civil law matter is before the Supreme Court of Prince Edward Island or the Prince Edward Island Court of Appeal. The clinic is held every Wednesday from 9:00AM – 12:00PM at the Sir Louis Henry Davies Law Courts, 42 Water Street, Charlottetown. People who access this service can meet with a lawyer for a 45-minute consultation. Appointments can be scheduled by phone at 902-368-6005, 902-892-0853 or 1-800-240-9798.

# Essential Non-Legal Resources

## PEI Ombudsperson

The **PEI Ombudsperson** is an independent office of the Legislative Assembly of PEI. The Ombudsperson conducts independent, impartial and non-partisan investigations of [complaints](#) against:

- Boards, commissions, associations and other bodies,
- Health PEI,
- Municipalities,
- Council members,
- Board members, and
- Officers and employees of the Government

The PEI Ombudsperson aims to promote fairness and transparency in the public sector, find fair resolutions, and make recommendations to improve the practices of public agencies.

## PEI 211

PEI 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 PEI. The service helps residents of PEI who are looking to find the right community or social resource, but do not know where to start. Individuals can also contact 2-1-1 to report some by-law infractions.

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

Services are grouped together into various categories, including (among others) [legal](#), [education](#) and [disabilities](#).



## **Office of the Child and Youth Advocate PEI**

The Office of the Child and Youth Advocate PEI listens to children and youth in PEI and helps to ensure that their voices are heard and taken seriously. Some of the functions performed by the Office of the Child and Youth Advocate PEI include:

- Connecting children, youth and their families to programs and services,
- Working with families, professionals, communities, and government to protect and promote the rights of children and youth,
- Making recommendations and reports about important matters for children and youth, and
- Providing public education workshops on children and youth rights, advocacy services, and legislation.

## **Atlantic Provinces Special Education Authority (APSEA)**

APSEA is an inter-provincial agency that is jointly funded by the governments of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

APSEA provides free support to students, ages 0-21, who have hearing loss and/or sight loss. To determine if you are eligible to receive services from APSEA, you can refer to their [\*\*Eligibility for Service\*\*](#) page on their website.

APSEA provides support in many different forms, including:

- in-school and in-classroom support to improve accommodations
- advocating for students within school settings
- developing [\*\*resources\*\*](#) for educators that work with children and youth who have sight loss

APSEA also has a [\*\*Production and Library Services\*\*](#) department that provides students with alternate format materials to support their instructional needs

## **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 also find a list and schedule of PEI’s virtual program offerings on [CNIB’s PEI 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 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.

You can contact VLRC's PEI office by phone at 902-566-2580.

## **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.

