

Transportation

Know Your Rights – Legal Information Handbook

April 2021

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 clinic.

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

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My Legal Rights

Q: What legal rights do I have when it comes to transportation in New Brunswick?

A: Under New Brunswick laws, people with disabilities have important legal rights when it comes to transportation:

- You have the right to have an **equal level of access** as anyone else to public transportation services, without discrimination because of your disability.
- You have the right to receive reasonable **accommodations** for your disability from transportation providers up to the point of **undue hardship**.
- You cannot be denied services or denied access to spaces that are normally available to the public because you are accompanied by a guide dog or other service animal.

Duty to Reasonably Accommodate & Undue Hardship

A transportation provider's "duty to reasonably accommodate" means that they are legally required to provide you with the supports/accommodations you need to receive an equal level of access to the transportation service as anyone else. The term "reasonable accommodation" is not easily defined and will vary from case-to-case, however, accommodations should be customized to meet your needs.

The duty to reasonably accommodate, however, does have a limit and this limit is called "undue hardship". "Undue hardship" is a legal term. It means that if a transportation provider can show that it is very difficult for them to provide you with a certain type of accommodation, then they don't have to provide it.

It's usually difficult for a transportation provider to claim undue hardship because they have to show clear, direct evidence of undue hardship that is not based upon assumptions or stereotypes. The determination of what constitutes undue hardship is case-specific, however, some of the most commonly considered factors include:

1. Whether the cost of the accommodation is so high that it will significantly interfere with the transportation provider's ability to operate. When calculating cost, consideration should also be given to outside sources of funding, e.g. grants or subsidies from government programs;
2. Whether the accommodation will create serious health and safety risks; and
3. The impact of the accommodation on other people.

Even if a service provider shows that a certain type of accommodation will create undue hardship for them, they may still have a legal duty to provide you with the next best type of accommodation.

Some Important Points about Accommodations:

The development and implementation of accommodations is a collaborative process that involves the transportation provider, the individual seeking accommodations, and in some cases, third-party professionals. While accommodations are expected to be reasonable, they are not expected to be perfect. What this means is that if reasonable accommodations are offered, but declined, then it's possible that the transportation provider will be found to have met its "duty to reasonably accommodate".

Q: Where do my legal rights come from?

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

- The New Brunswick [Human Rights Code](#), which prohibits discrimination based on disability in most areas of public life, including transportation services.
- The [Canadian Human Rights Act](#) which prohibits discrimination based on disability in most areas of public life where the federal government has authority.
- Common Law – Laws that are made by the decisions of Courts and Tribunals.
- The [Canada Transportation Act](#) and its [Accessible Transportation for Persons with Disabilities Regulations](#), which govern federally regulated transportation providers and

outline accommodations that people are entitled to when accessing a federally regulated form of transportation.

These laws may also be relevant to your situation:

- The [Accessible Canada Act](#) – this legislation came into effect in 2019, with the goal of creating a barrier-free Canada by 2040.
- New Brunswick's [Highway Act](#) which governs the vehicle licensing process, the classification of vehicles and the use of roads, highways, and ferries in New Brunswick.
- Other federal or municipal laws may apply depending on the type of transportation – see our overview [below](#).

Q: Who must comply with New Brunswick's transportation laws?

A: People, businesses, organizations and government officials are required to comply with New Brunswick's transportation laws. This includes:

- Businesses and organizations that provide transportation services in New Brunswick.
- Municipally operated transportation services, provincially operated transportation services, and federally operated transportation services (when operating within New Brunswick's borders).
- Staff employed by businesses, government organizations and other organizations that provide transportation services in New Brunswick.
- People who access transportation services in New Brunswick.

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

A: If you feel you have been unfairly discriminated against when accessing or trying to access a transportation service, there are things you can do to stand up for yourself.

In general, you should first try to resolve your concerns by speaking with the people and organizations 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 the [Know Your Rights – New Brunswick](#) webpage.

If your concerns can't be addressed through collaborative discussions, you may want to consider consulting with a lawyer, who practices human rights law to see what options are available to you. It is important to keep in mind that your legal options depend on which level of government has authority over the type of transportation service you're concerned about:

Summary of Transportation Services regulated by each Level of Government

Federally Regulated: Air, Rail, Inter-provincial highway, Inter-provincial ferry services

Provincially Regulated: Provincial highway and road, Provincial ferry services, Cycling

Municipally and Provincially Regulated: In-town buses, Paratransit

This is a general overview and some exceptions apply.

A human rights lawyer will be able to explain whether any of the following options is available:

- A complaint to the [Canadian Human Rights Commission](#) or the [Canadian Transportation Agency](#) (for federally regulated transportation service providers)
- A complaint to the [New Brunswick Human Rights Commission](#) (for transportation service providers regulated by provincial and municipal governments)
- A complaint to municipal by-law enforcement (if a municipality licenses the transportation service provider)
- A claim before a New Brunswick Court

Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to having an equal level of access to transportation services.

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.

Q: I often encounter barriers when trying to use a transportation service. I'd like to make a complaint, but I don't where to start. What can I do?

A: As a first step, consider voicing your concerns to the transportation provider. Many large transportation service providers have a designated person responsible for accessibility who can assist you.

If this does not help, you can gradually escalate your complaint – for example, to higher levels of management or to an official complaint process.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on the [Know Your Rights – New Brunswick](#) webpage.

If your concerns are still not addressed, you should consider consulting with a human rights lawyer to see what [options](#) you have. Your legal options will depend on [which level of government has authority](#) over the type of transportation service you're concerned about.

Q: The bus that I ride is inaccessible. For example, the bus lacks audio signals that identify stops and the driver does not reliably assist me. This lack of accessibility causes me to miss my stop or miss my bus. What can I do?

A: There are several things you can do to stand up for your rights.

Get Immediate Assistance

To get immediate assistance when onboard, approach the driver to inform them about your sight loss. Explain what problems you are experiencing and what assistance you require in as much

detail as possible. When you disclose your disability to a staff person, you trigger that transit provider's legal duty to reasonably accommodate you to the point of undue hardship.

You can ask for different kinds of assistance – for example, the driver could help you by:

- guiding you to a seat
- helping load or unload bags
- announcing stops
- advising you of any hazards or safety issues when exiting the vehicle

If the driver has problems with your requests, consider reminding them of their legal obligation to reasonably accommodate you (to the point of undue hardship), so you can have an equal level of access to transportation services as anyone else.

If this does not help, you can gradually escalate your complaint – for example, to the municipality that is responsible for operating the bus.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on the [Know Your Rights – New Brunswick](#) webpage.

If your concerns are still not addressed, consider consulting with a human rights lawyer to see what [options](#) may be available to you. Your legal options will depend on [which level of government has authority](#) over the bussing service you're concerned about.

Note: If you're looking for an alternative to the regular urban transit system, [Fredericton](#) and [Saint John](#), also offer accessible bussing services to eligible residents.

Ongoing Advocacy

To advocate for a more permanent solution, you will likely need to learn more about the transit provider – for example:

- Why have they not upgraded their buses to provide audio signals?
- Why does it seem like their staff are not well-informed about their legal obligations and not properly trained to provide accessible customer service?

You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

Q: The bus stop that I use is located in a dangerous location that requires me to cross over a highway or pass through a busy intersection. I feel as though my safety is at risk. What can I do?

A: Consider contacting the bussing service provider directly to explore options for ongoing accommodation. Many transit organizations have a designated person responsible for accessibility who can assist you. If this does not help, you can gradually escalate your complaint – for example, through an official complaint process or to higher levels of management.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on the [Know Your Rights – New Brunswick](#) webpage.

If your concerns are still not addressed, consider consulting with a human rights lawyer to see what [options](#) may be available to you. Your legal options will depend on [which level of government has authority](#) over the bussing service you're concerned about.

You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

Note: If you reside in [Fredericton](#) or [Saint John](#), you may also be eligible for alternative accessible bussing services.

Q: The bus stop that I use is not plowed during the winter months. Thus, I am frequently dropped off at locations other than the bus stop (e.g. various driveways) or required to climb over piles of snow to board the bus. This is hazardous and causes me to become disoriented. What can I do?

A: In New Brunswick, municipalities are generally responsible for snow removal within municipalities, whereas the provincial government's department of [Transportation and Infrastructure](#) is generally responsible for snow removal outside of municipalities.

Immediate Assistance

In circumstances where the concern is immediate and you are boarding or exiting a bus, ask the driver for assistance with orientation and safely navigating over/around the snow. Ensure to inform the driver of your sight loss, and the assistance you require in as much detail as possible. If the driver has problems with your requests, consider reminding them of their legal obligation to reasonably accommodate you (to the point of undue hardship), so you can have an equal level of access to transportation services as anyone else.

Ongoing Advocacy

If unplowed snow continues to be a barrier to receiving an equal level of access to transportation services, consider contacting the municipality or one of the department of Transportation and Infrastructure's [District Offices](#) to explore options for prompt snow removal and ongoing accommodation. If this does not help, you can gradually escalate your complaint – for example, to an official complaint process.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on the [Know Your Rights – New Brunswick](#) webpage.

If your concerns are still not addressed, consider consulting with a human rights lawyer to see what [options](#) are available to you. You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

Note: If you reside in [Fredericton](#) or [Saint John](#), an accessible bussing service may be an alternative suitable option for those who are eligible to utilize the service.

Q: I have been denied access to an accessible bussing service because I do not use a mobility device such as a wheelchair. What can I do?

A: Accessible bussing services tend to have eligibility criteria that not every person with a disability can meet. Generally speaking, accessible bussing services tend to be available to people who are unable to safely access regular bussing services. This may include people with sight loss who do not rely upon mobility devices.

If you are denied accessible bussing services because you do not use a mobility device, consider contacting the bussing service directly. It may be that the matter can be resolved through

collaborative discussions about the risks associated with the regular bussing system, and why you are unable to safely access it.

If the matter remains unresolved, then you can gradually escalate your complaint – for example, through an official complaint process or to higher levels of management.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on the [Know Your Rights – New Brunswick](#) webpage.

If your concerns remain unaddressed, consider consulting with a human rights lawyer to see what [options](#) are available to you. You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

**Q: I was denied access to a taxi because I am accompanied by a guide dog.
What can I do?**

A: Under New Brunswick's [Human Rights Code](#), the definition of "physical disability" includes, "physical reliance on a guide dog". Transportation service providers are legally obligated to provide people with disabilities (including people who are accompanied by guide dogs) with reasonable accommodations so as to ensure that they receive an equal level of access to the transportation service as anyone else.

Accordingly, aside from a few [very rare](#) situations, drivers of public vehicles in New Brunswick, such as taxis, are legally required to transport guide dog handlers and their guide dogs.

To provide assistance in these circumstances, CNIB has developed a [tip sheet](#) that describes some practical steps you can take to reduce the risk of a bad experience when accessing public places and services with your guide dog, including taxis. If you are still denied access because of your guide dog, there are many ways you can stand up for your rights.

First, consider making a formal complaint with the company that employs the driver. As a result of your complaint, the driver may face a range of disciplinary measures, including being prohibited from continuing to work for the company.

Information about Policies

For taxi companies, you will likely have to contact them by phone to learn about their non-discrimination policy and the consequences for a driver who violates the policy.

Uber publishes its [Non-Discrimination Policy](#) and [Service Animal Policy](#) online.

Second, consider consulting with a human rights lawyer to see which [options](#) are available to you. You can also connect with community organizations, like CNIB, to develop an advocacy strategy.

Q: When can I be denied access to a taxi because I have a guide dog?

A: A driver of a taxi can legally deny you and your guide dog access if the driver can prove it would cause them undue hardship. These situations are very rare; examples include:

- A driver who has a serious medical condition that prevents them from working with dogs.
- A driver who has a genuinely held religious belief that prevents them from being near dogs.

A driver can't simply pretend to have a serious medical condition or a genuinely held religious belief. If you choose to file a legal complaint and a driver doesn't have clear evidence to support their claims, it's likely that a Court or Tribunal will find them liable for discrimination.

It's important to know that even if a driver has a valid legal reason for denying you service, they and their parent company are still legally required to provide you with the next best accommodation. For example, the next best accommodation could be for the driver to arrange for another vehicle to immediately assist you and to wait with you until that other vehicle arrives.

Getting Help

Legal Services and Information

[Fredericton Legal Advice Clinic, Inc. \(FLAC\)](#)

FLAC is a non-profit organization that works with volunteer legal professionals to provide legal information and advice to low-income earners in New Brunswick.

The lawyers who volunteer with FLAC practice in a variety of areas of law and can provide 30-minute free-of-charge consults to self-represented individuals.

For information about upcoming [clinic dates](#) and to [request an appointment](#), visit [FLAC's website](#) or contact FLAC at (506) 476-0024.

[The New Brunswick Legal Aid Services Commission](#)

The New Brunswick Legal Aid Services Commission provides legal services to low-income earners in New Brunswick. In order to receive services from Legal Aid New Brunswick:

- You must meet their financial eligibility criteria - Financial eligibility will be based upon a number of things, including gross family income, allowable deductions, and household size;
- Your legal matter must relate to family law, criminal law, or public trustee services; and
- Your matter must have merit. In other words, there should be a reasonable likelihood of attaining the desired result.

For more information about the services offered by [The New Brunswick Legal Aid Services Commission](#) or to apply for Legal Aid, visit their website or contact [your local Legal Aid office](#).

University of New Brunswick (UNB) Legal Clinic

The UNB Legal Clinic provides free legal services to individuals who do not qualify for Legal Aid and cannot afford to pay for legal representation. The UNB Legal Clinic provides legal services in the areas of employment law, tenant law and social benefits.

The hours of operation are Monday to Friday, 8:00 a.m. to 4:00 p.m. The UNB Legal Clinic can be contacted by email at lawclinic@unb.ca.

Public Legal Education and Information Service of New Brunswick (PLEIS-NB)

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

PLEIS-NB provides free legal information on a variety of topics on its website, including, [You and Your Rights](#) and [Going to Court](#).

PLEIS-NB does not provide legal advice, however, it does provide the public with the following services:

- **[Family Law Information Line](#) - 1-888-236-2444:** This is a toll-free family law information line that provides answers to general questions related to accessing the family law system. It is important to keep in mind that staff cannot provide legal advice or comment on your specific situation.
- **Family Law Workshops for Self-represented litigants:** These workshops are held in various locations and cover different topics, such as changing child support, etc. They also provide the public with information about practical steps, such as starting a family law action, completing forms, etc.
- **Speakers' Bureau:** PLEIS-NB collaborates with the Canadian Bar Association – NB Branch to connect the public with lawyers who are willing to speak with groups free of charge about

particular legal topics.

[The New Brunswick Human Rights Commission](#)

The New Brunswick Human Rights Commission is a provincial government agency that was created to help enforce the rights people have under the New Brunswick [Human Rights Code](#).

The New Brunswick Human Rights Commission promotes human rights and the principles of equality through public legal education. It has created various public education resources (including a [Guideline on Accommodating People with Service Animals](#)) to assist people in New Brunswick with better understanding their rights.

The New Brunswick Human Rights Commission is also responsible for administering the mechanism for complaint intake and resolution.

For information about the [complaint process](#), visit the [New Brunswick Human Rights Commission's](#) website or contact the Commission by phone at 1-888-471-2233 (toll-free) or by email at hrc.cdp@qnb.ca. Commission staff can provide you with information about the human rights complaint process. They can also discuss how the New Brunswick [Human Rights Code](#) may or may not apply to your situation.

[Canadian Transportation Agency](#)

The Canadian Transportation Agency (also called the **CTA**) helps protect the human rights of people with disabilities to access federally regulated transportation services. For **federally** regulated transportation services, you may be able to file a [complaint](#) with the CTA.

The CTA also has a toll-free [Accessible Transportation Complaints Help Line](#), wherein staff can provide information and guidance about concerns involving accessible transportation. The hours of operation for the help line are Monday to Friday, 8:00 a.m. to 5:00 p.m., Eastern Time, and the contact information is:

- **1-844-943-0273**

- **TTY: 1-800-669-5575**

The CTA also publishes a range of helpful materials such as:

- [Take Charge of Your Travel](#)
- [Travelling with a Service Animal](#)
- [Additional Seating and the One Person, One Fare Requirement for Domestic Travel: A Guide](#)

[The Canadian Human Rights Commission](#)

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

Essential Non-Legal Services

[Ombud N.B.](#)

Ombud N.B. is an independent officer that is responsible for investigating complaints from the public about New Brunswick government services. The Ombud N.B. investigates complaints against provincial government departments and other agencies that are overseen by the provincial government.

You may [contact](#) **Ombud N.B.** to discuss a concern, or [make a complaint](#) regarding government services.

Premier's Council on Disabilities

The Premier's Council on Disabilities was established to improve the lives of people with disabilities. It is responsible for (among other things) advising the government on the status of persons with disabilities. Its [website](#) contains a range of resources, services and directories for people with disabilities.

CNIB Services (Non-Legal)

We're here to help – contact CNIB for more services, 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 national virtual program offerings on [CNIB's website](#).
 - You can access a list and schedule of CNIB New Brunswick's virtual program offerings on [CNIB – New Brunswick'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,

Canadians who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversations.

- **CNIB Online SmartLife Store**

- 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 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's Advocacy Staff**

- CNIB's Advocacy staff can assist clients with advocating for themselves and understanding their human rights in New Brunswick

- **CNIB's Guide Dog Program**

- CNIB's Guide Dog Program can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations about the rights of guide dog users.

Vision Loss Rehabilitation

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 sight loss. VLRC provides people with the practical skills they need to live safely and independently. VLRC's services are tailored to the unique needs and goals of each person. VLRC's services include, but are not limited to:

- Assistance with navigating new environments and using mobility tools;
- Assistance with maximizing remaining vision with optical and non-optical devices;

- Assistance with developing or restoring key daily living skills, such as learning new ways to cook, shop and manage your home;
- Assistance with accessing information and using technology;
- Assistance with post-secondary education and employment planning, and ongoing support;

VLRC has offices located in Moncton, Fredericton and Beresford. You can contact VLRC's New Brunswick branch by email at infonb@vlrehab.ca or by phone at:

- VLRC's Beresford Office – (506) 546-9922
- VLRC's Fredericton Office – (506) 458-0060
- VLRC's Moncton Office – (506) 857-4240

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.

Web / Site Web : cnib.ca / inca.ca

Email / Courriel : info@cnib.ca / info@inca.ca

Toll Free / Sans frais : 1-800-563-2624