

SCHOOLS AND SERVICE ANIMALS – ADVOCACY TOOLKIT

**DISCLAIMER: The information provided in these materials is not intended to be legal advice. Consult a lawyer or legal worker if you need legal advice on a specific matter. This information is current as of July 2017.*

Part 1: Introduction

If you or your child has a disability and needs a service animal to participate in the classroom, you might have experienced barriers to bringing a service animal to **primary or secondary** school. These examples might be familiar to you:

- One of the children in your child’s classroom has a fear of dogs.
- The bus driver says her company doesn’t allow animals on the buses.
- The principal says that your child has to make sure the dog has water.
- Your child’s educational assistant won’t take the dog outside for bathroom breaks.
- Your child’s teacher is allergic to dogs.

What can you do if you find yourself in one of these situations? This Toolkit has legal information to support students and their parents or guardians to advocate for their need for a service animal with their school community.

Part 2: Know Your Rights

Service animals can play an important part in making sure that students with disabilities get equal access to education. Students with disabilities have the right to attend school with a service animal. This right comes from these laws:

- Ontario’s *Human Rights Code*(Code)
- *Accessibility for Ontarians with Disabilities Act* (AODA)

Ontario’s *Human Rights Code* protects people in Ontario against discrimination. It establishes a legal duty to accommodate people with disabilities including in schools. The duty to accommodate recognizes that people have different needs and require different solutions to gain equal access to services. To accommodate someone means to remove the barriers which prevent people from gaining access to jobs, housing, and the use of goods, services and facilities (e.g. public transit or schools).

Every student with a disability has the right to accommodation up to the point of undue hardship. Three factors that may be considered when assessing undue hardship are cost, outside sources of funding and health and safety requirements.

A school has a responsibility to be flexible and creative in exploring solutions, including considering any competing rights that may be involved. For example, it may have to think about how to balance the right to have a service animal in the school with the rights of other students or staff with severe allergies.

Students and their families have a duty to cooperate in the accommodation process. It is important to have a strong relationship with the school, if possible. Open dialogue is important and the service animal's trainer should be involved in discussions with your school. Students and their families should begin by advocating to bring the service animal into the school as soon as they get approval for a service animal from the training facility.

The following tips can help with your advocacy efforts:

- Keep the lines of communication open.
- Keep notes of your conversations with teachers and school officials. Include the date and who you spoke to or who attended the meeting.
- Keep copies of school records and letters sent to and from the school.
- Share information about disability-related needs.
- Find out if the school board has a policy on service animals. Ask for a copy of the policy.
- Ask the animal trainer about advocacy support.
- If you think you or your child has been discriminated against because of disability, you may contact ARCH Disability Law Centre for free, confidential legal advice and information.

Part 3: Frequently Asked Questions

What is a “disability”?

The *Code* defines disability broadly. Courts and tribunals in Canada have adopted the social model of disability. The social model relies on the idea that it is mostly structural barriers that interfere with the lives of people with disabilities. The focus of the social model is on eliminating barriers and providing accommodation, rather than on what's “wrong” with the person with a disability.

What is a service animal?

The Human Rights Tribunal of Ontario has found that the *Code* does not limit the definition of a service animal. For the *Code*, a service animal does not have to be trained or certified by a recognized disability-related organization. For the *AODA*, the only pre-condition to being considered a service animal is that the animal is being used by a person in a situation where it is either “readily apparent that the animal is used by the person for reasons relating to [their] disability,” or where the person provides a letter from a regulated health professional confirming that the person requires the animal for reasons relating to their disability (section 80.45(4) of the *Integrated Accessibility Standards*). The *AODA* does not require that the service animal be formally certified.

I / My child requires the use of a service animal while in school. What should I / my child do?

Contact the school or school board and ask about its policies and procedures for having you/your child attend its school with a service animal. A student should provide a letter which sets out that the student has a disability and that the service animal is needed by the student to accommodate their disability.

The *Integrated Accessibility Standards* is a regulation made under the *Accessibility for Ontarians with Disabilities Act*. Part IV.2 requires school boards to establish policies governing the provision of its educational services to students with disabilities, including students who require the use of service animals.

First, you may want to request that the school provide you with information about its policies by using **Template 1, below**. If the school board has *not* established a policy about providing educational services to students with disabilities who require the use of service animals, consider contacting the Accessibility Directorate of Ontario to inform them. However, you will still need to work with the school to secure the appropriate accommodations.

To contact the Accessibility Directorate of Ontario:

Email: accessibility@ontario.ca
Fax: 1-416-325-3407
Toll-Free Phone: 1-866-515-2025
TTY: 1-416-325-3408
TTY Toll-Free: 1-800-268-7095
Mail: Accessibility Directorate of Ontario
777 Bay Street, 6th Floor, Suite 601A
Toronto, ON M7A 2J4

How does the accommodation process work?

Accommodation is a two-way street. There is an obligation to bring the need for accommodation to a school board's attention. Students or their parents or guardians should approach a school about their accommodation needs as soon as possible. It is best to do that well in advance of the start of the academic year, if possible. The school board should have a policy in place, and if it does, you should become familiar with it.

Does it matter that the school board has a policy in place already?

School boards have different approaches to accommodating students with disabilities who require the use of a service animal. Regardless of whether a school board has established a policy, the school board must accommodate the student with a disability in a way that respects their dignity and independence.

The duty to accommodate requires that students with disabilities are given an opportunity equal to that given to other students to obtain, use and benefit from educational services. Accommodation must also be individualized. That means that every student's needs are unique. A blanket approach to the accommodation is unacceptable.

It might be that a school board says that they do not mean to discriminate, but that they are just implementing their policies, practices or procedures. Whether someone intended to discriminate is not relevant to a human rights analysis. It doesn't matter if the school board only followed their rules and didn't mean to discriminate. Only the result or effect is significant.

What documents do I need to share with a school board about my / my child's disability?

You may need to provide supporting documentation about the student's disability related-needs. See **Template 2** for an example of such a letter. Requests for information, however, must respect a student's privacy rights. A student is not required to disclose a detailed diagnosis of the disability in order for a school board to respond to a request for accommodation. The school board does not need to know, for example, the student's precise diagnosis.

How should the school board respond?

The school board should educate the school community about service animals. Emphasis should be placed on the fact that the service animal is not a pet. Staff and students should NOT pet, feed or call the service animal. Try enlisting the help of your guide dog agency to help educate the school community. There is some language here at **Template 5**, below.

The school board is requiring I get expensive liability insurance. Am I required to get this?

In most cases, when an animal bites or injures someone, owners are both financially and legally responsible for injuries their dog causes. Section 2 of the *Dog Owners' Liability Act*, RSO 1990, c D 16 says "[t]he owner of a dog is liable for damages resulting from a bite or attack by the dog on another person." When the owner of the service animal is a minor, the minor's parent or guardian is liable for damages caused by the dog. Liability insurance is an insurance policy that could protect you if your service animal, for example, bites another student. Often, your home or apartment insurance policy will already provide you with coverage. Review your policy and contact your insurance provider to see if you would be covered.

Part 4: Letter Templates

These templates are basic starting points for you to use in your communication with your school and school board. Use them as guidelines and adjust them to suit your own situation.

Template 1 – Letter Requesting Information

[Insert Date]

[Insert School Board Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Attention: [Insert Name if known, or just insert school board's name]

Re: Request for information on policies, practices and procedures

I / my child requires the use of a service animal while in class. The *Integrated Accessibility Standards* is a regulation made under the *Accessibility for Ontarians with Disabilities Act*. It applies to all school boards in Ontario.

Part IV.2 of the *Integrated Accessibility Standards* provides that if a student with a disability is accompanied by a service animal, the school board must make sure that the student is allowed to enter the school with the animal and keep the animal with them. School boards must have policies that govern the provision of educational services to students with disabilities. They must make those policies available.

Pursuant to s. 80.47(8) of the *Integrated Accessibility Standards*, I request the school board's policies pertaining to the provision of its educational services to students with disabilities who require the use of service animals in the classroom.

Sincerely,

[Insert Your Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Template 2 – information supporting claim of disability

[Insert Date]

[Insert School Board Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Attention: [Insert Name if known, or just insert school board's name]

Re: Information regarding [Insert Name of Student]

Please be advised that [Insert Name of Student] has a disability and is requesting accommodation in relation to [his/her] disability-related needs.

Attached please find a copy of a letter from [Insert Name of Health Care Provider] which includes information about [his/her] disability-related needs.

I look forward to discussing with you how [Insert Name of Student] can be appropriately accommodated. I look forward to receiving your written response by [DATE].

Sincerely,

[Insert Your Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Template 3 – Request for Accommodation

[Insert Date]

[Insert School Board Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Attention: [Insert Name if known, or just insert school board's name]

Re: Request for Accommodation

Please be advised that [Insert Name of Student] has a disability and requires accommodation of [his/her] disability-related needs. Attached here you will find a copy of a letter from [Insert Name of Student's health care provider]. It confirms that [Insert Name of Student] has disability-related needs.

[Insert Name of Student] requires the following individualized accommodation(s), including:

- Having the service animal accompany him/her during all school and extra-curricular activities
- Assistance handling the service animal.
- Assistance feeding or caring for the service animal.

If these accommodations are not provided, [Insert Name of Student] will face barriers to fully engaging with the educational environment. Pursuant to Ontario's *Human Rights Code*, [Insert Name of Student] has the right to equal treatment with respect to educational services without discrimination because of [Insert Name of Student]'s disability. I request an in person appointment with representatives of the school board to discussion accommodation plans for [Insert Name of Student].

I look forward to your response in writing.

Sincerely,

[Insert Your Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Template 4 – Information Regarding the Service Animal

[Insert Date]

[Insert School Board Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Attention: [Insert Name if known, or just insert school board's name]

Re: Information regarding [Insert Name of Student]'s Service Animal

[Insert Name of Student] requires the use of their service animal in class.

Pursuant to Part IV.2 of the *Integrated Accessibility Standards of the Accessibility for Ontario with Disabilities Act*, a school board must ensure that a student who is accompanied by a service animal, is allowed to enter the school with the animal and to keep the animal with them. Nothing in the *Human Rights Code* or the *Accessibility for Ontario with Disabilities Act* limits the definition of a service animal to one which is trained or certified by a recognized disability-related organization.

Please be advised that [Insert Service Animal's Name] is a service animal, and that [Insert Service Animal's Name] assists [Insert Name of Student] with [his/her] disability-related needs.

[Pick one of the following two statements]

- It is readily apparent that the service animal is being used by [Insert Name of Student] in relation to their disability.

OR

- If it not be readily apparent that the service animal is being used by [Insert Name of Student] in relation to their disability, included here is a letter from a [healthcare provider] which confirms that [Insert Name of Student] requires the animal for reasons relating to [her/his] disability.

Should you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

[Insert Your Name]
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Template 5 – Notice to the School Community

[Insert Date]

Dear Parent / Guardian,
[Insert Street]
[Insert City], Ontario
[Insert Postal Code]

Attention: [Insert Name if known, or just insert school board's name]

Re: Notice of Service Animal

This is to inform you that a service animal will be in our school to support one of our students. The child's right to a service animal is protected by both Ontario's *Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act*.

As you may be aware, service animals support students to access educational services. This service animal is highly trained, and has been included in every aspect of the student's life.

Information Session Scheduled for: [DATE]

The school will be hosting an information session on the date listed above. The session will be aimed at integrating the service animal into the school. At this meeting, staff and students will be provided with information about how to interact with the service animal. It will be explained to them that the service animal is a working service animal and not to be treated like a pet.

If you have any concerns regarding the presence of the service animal in the school or in your child's class, please feel free to contact me at the school.

Sincerely,

[PRINCIPAL]