



ARCH Disability Law Centre

Advocacy Toolkit: Service Animals in Schools in Ontario

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Disponible en français

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**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 January 2019.*

Please note that the information in this Guide does not apply to all situations. A person's accommodation needs may vary over time and at different points in the day. Always ask the person with the disability how to most appropriately accommodate them.

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Introduction

If you have a disability and need 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 classroom has a fear of dogs;
- The bus driver says their company does not allow animals on the buses;
- The principal says that you have to make sure the dog has water;
- Your educational assistant won't take the dog outside for bathroom breaks;
- Your teacher is allergic to dogs.

What can you do if you find yourself in one of these situations? This toolkit has legal information to help students advocate for their need for a service animal within their school community.

The rights discussed in this toolkit are based on the *Human Rights Code*. It is important to remember that in certain circumstances other laws may apply to your situation and that it is always a good idea to seek legal advice if you are experiencing similar issues as those discussed above.

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 the *Human Rights Code* ('Code').

The *Code* protects people in Ontario against discrimination. It establishes a legal duty to accommodate people with disabilities including in schools. Accommodation means that schools recognize that people have different needs and may need different supports or ways of accessing their education. To

accommodate someone means to remove the barriers which prevent people from gaining access to their education.

Every student with a disability has the right to accommodation up to the point where it causes a school board undue hardship. Three things are considered when looking at undue hardship. These are the cost of the accommodation, outside sources of funding for an accommodation and health and safety concerns related to an accommodation.

A school has a responsibility to be flexible and creative in exploring solutions. For example, they may have to balance the right of a student to have a service animal against the right of a student or staff person with severe allergies.

You and your family have a duty to cooperate with the school in figuring out what sort of accommodations you need and getting those into place. It is important to have a good relationship with the school. It is good to have your service animal's trainer involved in discussions with the 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 your 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; and
- If you think you have been discriminated against because of your 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 and there is not a set list of disabilities. Disabilities include physical disabilities, mental health disabilities and developmental disabilities. It can even include perceived disabilities. Whether or not you have a disability under the *Code* depends on how the disability you have affects you in your environment.

What is a service animal?

The Human Rights Tribunal of Ontario has found that a service animal can be many different animals used for many different purposes. It has not limited the definition of a service animal. For the *Code*, a service animal does not have to be trained or certified by a recognized organization.

I require the use of a service animal while in school. What should I do?

Contact the school or school board and ask about its policies and procedures for having you attend school with a service animal. Once you get the policies, you should write a letter telling the school that you have a disability and that you need the service animal to accommodate your disability. Review **Letter 1** below for an example of a letter that a parent may choose to send the school board on their child’s behalf.

How does the accommodation process work?

Accommodation is a two-way street. You need to tell the school board about your need for a service animal 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.

What documents do I need to share with a school board about my disability?

You may need to provide medical documents about your disability-related needs. Requests for information, however, must respect your privacy rights. You do not have to disclose a detailed diagnosis or other medical information unrelated to your request. You only need to disclose what is necessary for the school board to provide accommodation.

How should the school board respond?

In most cases, school boards should grant accommodation requests that are required because of disability-related needs. They should also try to educate the school community about service animals. The school should explain to the community that a service animal is not a pet. Staff and students should not pet, feed or call the service animal. If your service animal is a dog, you may want to ask your animal trainers to help educate your school community.

The school board is requiring I get expensive 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 animal causes. For example, 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 under the age of 18,

their parent or guardian is liable for damages caused by the animal. Insurance could protect you if your service animal, for example, bites another student. Often, your parent's home or apartment insurance policy will already provide you with some insurance coverage. Review your policy and contact your insurance provider to learn if you would be covered.

Part 4: Sample Letter

This letter provides an illustration of what a parent might send when they are faced with a common situation. They are for illustration purposes only and are tailored to a particular set of facts.

Template 1 - 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 discuss 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]

Notes