

# ACCOMMODATING DISABILITIES AT WORK

The New Brunswick Human Rights Act (Act) prohibits discriminatory treatment in employment based on a person's physical or mental disabilities.



## PHYSICAL AND MENTAL DISABILITIES IN HUMAN RIGHTS

Section 2 of the Act defines **physical disability** as any **medical condition** caused by an injury, illness, or birth defect. The condition **does not have to be permanent**. It can include short-term illnesses, but not common conditions like a cold, flu, or strep throat.

### Examples of physical disabilities:

- Back problems
- Diabetes
- Cancer
- Multiple Sclerosis
- Heart conditions
- Colour blindness

The Act defines **mental disability** as **intellectual or development disabilities** (ex: Down Syndrome), **learning disabilities** (ex: ADHD, Dyslexia, etc.), and **mental health conditions**.

### Examples of mental disabilities:

- Anxiety
- Depression
- ADHD
- PTSD
- Bipolar Disorder
- Autism

If an employee does not have a disability, but their employer thinks they have a disability and treats them differently as a result, such treatment would be discriminatory under the Act. **This is discrimination based on perceived disability.**

### Example:

You tell your employer that **you had a disability in the past** which has now been cured. However, the employer assumes that you still have a disability and will not be able to work full-time hours because of your condition. The employer reduces your work hours - this is discrimination based on perceived disability.

## DISABILITIES AND EMPLOYMENT UNDER THE ACT:

Under human rights law, an **employer cannot discriminate against employees because they have a mental or physical disability**. Discrimination is prohibited in all types of jobs, including full-time, part-time, permanent, or casual positions. The Act also protects against discrimination during the hiring process

## DUTY OF EMPLOYERS TO ACCOMMODATE PERSONS WITH DISABILITIES

If you require support related to a **physical or mental disability**, your employer must **accommodate your reasonable request** for that support. This is called the **duty to accommodate, and it is the law.**

The duty to accommodate means that an employer must **change their rules or policies to support an employee with a disability**. This ensures that all employees are treated equally and can fully participate and contribute to their workplaces. **The duty to accommodate is also collaborative**. This means that the employee must cooperate with the employer, so both of them can together explore how best to support the employee in their job. For example, the employee should provide **any relevant medical or other documents** to the employer.

If it becomes **too difficult for an employer to accommodate your need** (for example due to health and safety reasons), then **they can deny your accommodation request**. Such denial must be based on careful assessment - it cannot be automatic. This is called **undue hardship**.



## DUTIES OF EMPLOYERS



### Gathering information

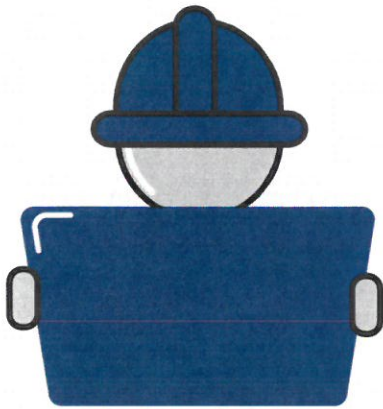
Employers must work with healthcare providers to **evaluate the employee's specific needs and limitations**. Each accommodation request must be reviewed to assess the specific needs of an employee. Employers **must not use a "one-size fits all" approach** in the accommodation process.

**Employers should have regular check-ins with employees to ensure that an accommodation is working well. If an accommodation is not working, employers should explore other solutions.**



### Providing suitable accommodation

After evaluating an employee's needs, the employer must provide **reasonable accommodations** for them. This could mean assigning different tasks or finding a new role to fit an employee's limitations.



## DUTIES OF EMPLOYEES

- **Tell your employer if you need accommodations** for your disability. In most cases, if an employer does not know that you have a disability, they are not required to provide an accommodation.
- You may also need to **provide documents like a doctor's note** that explains your limitations, how long the accommodation may be needed, and if you can do alternative work. **You do not need to tell your employer your specific diagnosis** or the medication you may be taking.
- Talk to your employer about potential solutions for accommodations and **work together to implement them**. You **must accept reasonable accommodations**, even if they are not your preferred options.
- Work with your employer to make sure that the accommodation you need is still in place and working well.

## EXAMPLES OF ACCOMMODATIONS RELATED TO PHYSICAL OR MENTAL DISABILITIES

- Reducing an employee's workload and/or assigning them a new position that fits their current needs and capabilities.
- Having flexible work schedules for employees who need to attend doctor's appointments.
- Allowing an employee to bring their service animal to work.
  - **Note: Service and emotional support animals are protected under the Act if they are part of the treatment for a mental or physical disability.**
- Providing support tools, like text reading software, for an employee with visual impairment.
- Ensuring workspaces are accessible for employees with mobility restrictions.

Learn more about accommodating disabilities in the workplace by consulting our "Guideline on Accommodating Physical and Mental Disabilities at Work"! <https://bit.ly/3y23U3e>




## DO YOU HAVE QUESTIONS? CONTACT THE COMMISSION

The **New Brunswick Human Rights Commission** is a government agency that ensures the human rights of all New Brunswickers are protected under the Act. If you want to learn more about your rights and responsibilities related to disabilities in the workplace, contact the Commission. The Commission **provides free information about your rights and will help you if you face discrimination**.

If you think you have experienced discrimination, **you can file a complaint with the Commission**.

## YOU CAN REACH US AT:

 (506) 453-2301

 [hrc.cdp@gnb.ca](mailto:hrc.cdp@gnb.ca)

 [www.gnb.ca/hrc-cdp](http://www.gnb.ca/hrc-cdp)

# ACCOMMODATING STUDENTS WITH DISABILITIES IN POST-SECONDARY INSTITUTIONS

The New Brunswick *Human Rights Act (Act)* prohibits discrimination based on a person's physical or mental disabilities in five areas, including services. The area of services includes post-secondary institutions like universities, colleges, and institutes.

## PHYSICAL AND MENTAL DISABILITIES IN HUMAN RIGHTS

**Physical disability** is a medical condition resulting from injuries, illnesses, or birth defects. The condition **does not have to be permanent** and can include short-term illnesses but does not generally include common conditions like a cold, flu, or strep throat.

### Examples of physical disabilities:

- Back problems
- Diabetes
- Cancer
- Multiple Sclerosis
- Heart conditions
- Colour blindness

If an institution treats a student differently because **they believe the student has a disability**, even if the student does not have one, it could also be considered discrimination under the *Act*. This type of discrimination is known as **perceived disability discrimination**.

For example:

- Instructors at a college become concerned about a student, Pierre, who appears to be struggling in his courses and **they believe he may be dealing with depression**. An instructor approaches Pierre privately to address the concern, but Pierre insists he's okay and doesn't need an accommodation. However, the college decides to **exclude Pierre from a practicum because they worry that he may struggle in the course**.

Under the *Act*, **mental disability** includes **intellectual or developmental disabilities** (ex: down syndrome), **learning disabilities** (ex: ADHD, dyslexia, etc.), and **mental health conditions**.

### Examples of mental disabilities:

- Anxiety
- Depression
- ADHD
- PTSD
- Bipolar Disorder
- Autism



## RESPONSIBILITY OF POST-SECONDARY INSTITUTIONS: DUTY TO ACCOMMODATE

Under the *Act*, post-secondary institutions have a **legal duty to make changes and offer support**, so students with disabilities can fully participate in their education or training. This includes adapting teaching methods and providing alternative arrangements to remove barriers that may impact students with disabilities. **This is called the duty to accommodate, and it is the law.**

**Accommodating students with disabilities in post-secondary education is a joint effort.** Medical professionals, educators, service providers, and students must work together to identify the right accommodations. The goal of accommodations is to ensure students with disabilities can **fully participate in their education and have the same opportunities in all aspects of their educational journey.**

### Reasonable Accommodations

Under human rights law, students with disabilities have **the right to a reasonable accommodation that meets their needs**. These accommodations may not be perfect or a student's first choice but should be reasonable and fair.

- For example, a student receives an extra hour for exams as a reasonable accommodation. However, requesting an entire day may be considered unreasonable, as it could disrupt the school's exam schedule and staffing capacity.

# BASIC PRINCIPLES OF ACCOMMODATION

Accommodations involve three key principles:

1

## Dignity

Students with disabilities have the right to access educational services in a way that respects their dignity.

Accommodations must not make students feel inferior or stigmatized and must respect their privacy as much as possible.

2

## Individualization

Educational institutions must recognize each student's unique needs and provide personalized approaches that meet these specific needs.

3

## Inclusion

Educational institutions must create an environment where students with disabilities are welcomed and have equal access to education and related opportunities.

## UNDUE HARDSHIP

If providing an accommodation becomes too difficult, for reasons like health and safety, the institution may deny the accommodation request. This denial must be based on careful assessment and cannot be automatic. **This is called undue hardship.**

## RESPONSIBILITIES OF STUDENTS

- Tell their post-secondary institution if an accommodation is needed.
- **Provide the necessary documentation** to support the need for an accommodation, for example a doctor's note.
  - Students are entitled to privacy and **do not have to tell the educational institution their specific diagnosis.**
- Work with their educational provider and experts to find a suitable accommodation.
- **Fulfill the responsibilities** in their accommodation plan.
  - In some cases, students may need to manage some aspects of the accommodation, like applying for grant funding or following up with relevant individuals to ensure the accommodation is set in place.
- **Communicate regularly** with the institution to ensure the accommodation is working well.



## RESPONSIBILITIES OF INSTRUCTORS

Instructors play an important role in the accommodation process, as they are the ones that design and deliver educational services. They have the following responsibilities:

- Maintain a positive learning environment.
- Provide course materials in alternative and accessible formats.
- Consider alternative means to meet educational goals or class requirements for students with disabilities.
- Create an inclusive class environment and ensure students with disabilities are given the same opportunities to participate as other students.

Learn more about accommodating students with disabilities by consulting our "Guideline on Accommodating Students with Disability in Post-Secondary Institutions"!

<https://bit.ly/3Gtqzcd>



## DO YOU HAVE QUESTIONS? CONTACT THE COMMISSION

The New Brunswick Human Rights Commission is a government agency that ensures the human rights of all New Brunswickers are protected under the Act. If you want to learn more about your rights and responsibilities related to disabilities in post-secondary education, contact the Commission. The Commission provides **free information about your rights** and can provide information on filing a complaint if you face discrimination.

If you think you have experienced discrimination in New Brunswick, you can file a complaint with the Commission.

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# ACCOMMODATING PEOPLE WITH SERVICE ANIMALS

The *New Brunswick Human Rights Act (Act)* prohibits discriminatory treatment based on a person's physical or mental disabilities in employment, housing, and services. This includes protections for individuals who use service animals as they fall under the grounds of physical and mental disability.

## WHAT IS A SERVICE ANIMAL?

A service animal is an animal that **has been specially trained to perform specific tasks or work for a person with a disability**. Dogs are the most common service animals, but other animals like cats can also be used. Service animals can **assist people with various disabilities**, including but not limited to anxiety, ADHD, visual impairment, autism, bipolar disorder, claustrophobia, depression, epilepsy, hearing impairment, mobility issues, obsessive-compulsive disorder, and post-traumatic stress disorder (PTSD).

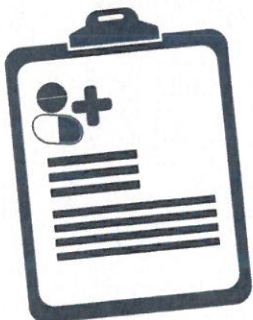
In New Brunswick, any animal trained to assist a person with a disability can be considered a service animal under the *Act*, and there is **no requirement for professional certification or special vests or harnesses**. Similarly, emotional support animals (ESAs) are also protected under human rights legislation if they are part of a person's treatment for a disability.

## DUTY TO ACCOMMODATE

A person with a service animal or ESA has the same right to access public services, employment, and housing as any other person. If you require a service animal, employers, service providers and housing providers have a **legal responsibility to accommodate your reasonable request for accommodation**.

The duty to accommodate means that an employer, service provider or housing provider **must make exceptions to their rules or policies, such as "no pets" policies**, to support an individual with a service animal.

If it becomes too difficult for an employer, service provider or housing provider to accommodate your service animal (for example, due to safety concerns), then they may deny your accommodation request. This is called undue hardship. Whether or not a situation creates **undue hardship** depends on the **specific circumstances and careful assessment of each situation**. An employer, service provider or housing provider cannot automatically deny your request without first exploring all potential accommodation options.



## MEDICAL DOCUMENTATION AND SERVICE ANIMALS

Employers, service providers, and housing providers are **allowed to ask for verification that an animal is a service animal or ESA**. A note from a doctor or a psychologist, confirming that the animal is required for medical reasons, is adequate as verification.

However, a person with a service animal or ESA **does not need to disclose their medical condition or diagnosis as part of the accommodation process**. Medical documentation only needs to confirm that the individual has a disability and that reliance on the animal is beneficial for them.

## BALANCING ACCOMMODATION NEEDS

In some cases, employers, services providers, and housing providers may need to accommodate individuals who cannot be around service animals due to allergies or phobias. In these cases, they **must balance the needs of both parties** and find ways to keep the service animal at a distance from the person with the allergy or phobia, unless doing so would cause undue hardship.

### Example:

A tenant tells the landlord that they require a service dog for a physical disability. However, another tenant informs the landlord that they have a significant phobia of dogs. **To accommodate the needs of both tenants**, the landlord moves the service animal user to the opposite end of the building to limit the animal's contact with the other tenant. The landlord also tells the tenant with the service animal that they may only use a specific door to enter and exit the building.

## OBLIGATIONS OF THE PERSON WITH A SERVICE ANIMAL



**Maintain control of the service animal** at all times. If the animal poses a risk to others or misbehaves, the employer, service provider or housing provider may no longer be able to accommodate your service animal.



**Collaborate** with the employer, service provider or housing provider to implement **reasonable accommodations** for your service animal. You **must accept reasonable** accommodations, even if they are not your preferred options.



**Provide the appropriate medical documentation** supporting your need for a service animal.



**Respond to reasonable inquiries** about the function the animal performs. However, you do not have to disclose your medical condition.

## "NO PETS" POLICIES



Service animals or ESAs **are not considered pets**, but rather a support for an individual with a disability.

As such, **"no pets" policies** or additional **"pet fees" should not be applied** to service or emotional support animals.

Learn more about service animals and human rights by consulting our "Guideline on Accommodating People with Service Animals"! <https://bit.ly/3y23U3e>



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