

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

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

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**.



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.

YOU CAN REACH US AT:

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