

# ACCOMMODATING STUDENTS WITH A DISABILITY (K-12)

The New Brunswick *Human Rights Act (Act)* prohibits **discriminatory treatment** based on a person's **physical or mental disabilities** in five areas including services. This includes **public schools** and other **educational facilities** available to the public.



## 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 a student **does not actually have a disability**, but the school or its staff believe that they do and treat them differently because of that belief, it would be considered discrimination under the *Act*. This type of discrimination is known as **perceived disability discrimination**.

### For example:

Alex is a student who is **very quiet and reserved** in class. Some of Alex's teachers **perceive this behaviour as a sign of a mental disability** or intellectual limitation. As a result, the teachers start treating Alex differently and excluding him from certain class activities or opportunities. However, Alex is **simply introverted and doesn't enjoy participating** in class.



## Duty to Accommodate in Schools: What is an Accommodation?

Under the *Act*, schools have a **legal duty** to make **changes** and **provide support** so that **students with disabilities can fully participate in their education**. Accommodations can include adjusting the learning environment, teaching methods, and providing extra resources or assistance. The goal of an accommodation is to **remove barriers and ensure equal access to education** for students with disabilities. This is called the **duty to accommodate, and it is the law**.

Accommodations can take many forms, depending on the student's individual needs.

For example, schools may:

- ▶ Provide specialized learning materials or technologies.
- ▶ Adjust classroom set ups to ensure accessibility.
- ▶ Allow extra time for assignments or exams.
- ▶ Provide note-taking support.
- ▶ Assign a classroom aid to provide individualized support to the student.



If **providing an accommodation becomes too difficult for a school** (for example due to health and safety reasons), then they might deny the accommodation request. Such denial must be based on careful assessment and **cannot be automatic**. This is called **undue hardship**.

# The Principles of Accommodation

Accommodations involve three key principles:

1

## Dignity

Treating students with disabilities **respectfully** and valuing their **worth**. When implementing accommodations, it is important that the students are not made to feel inferior or stigmatized.

2

## Individualization

Recognizing the **unique needs** of each student with a disability and providing **personalized accommodations** that meet their specific needs.

3

## Inclusion

Creating an environment where students with disabilities are **welcomed** and have **equal access** to education and opportunities.

## Role of Parents

**Parents play an important role in the accommodation process.** As the representatives of the student, they can provide information about their child's disability or specific requirements, communicate their concerns or preferences, and be involved in the decision-making process.

Parents must work together with medical professionals, teachers, and psychologists to find a **reasonable accommodation** that meets the needs of the student. This may include:



- ▶▶ Telling the school if an accommodation is needed.
- ▶▶ Providing the **appropriate medical documentation** to support the need for an accommodation.
- ▶▶ **NOTE: Parents do not need to tell the school the child's specific diagnosis or medication.**
- ▶▶ Accepting a **reasonable accommodation** for their child, even if it's not their preferred solution.
- ▶▶ Fulfilling their **responsibilities** established in the school's accommodation plan.
- ▶▶ Communicating any difficulties the child may be having with an accommodation.
- ▶▶ **Regularly communicating** with the school to ensure the accommodation is working well.

## Bullying and Harassment in Schools

**Schools must create a safe environment free from bullying and harassment.** Under the *Act*, if a student experiences bullying based on a protected characteristic (like a disability), the school is responsible for addressing it. A **student can file a complaint** if a school fails to address discriminatory bullying or harassment.

Schools can resolve bullying issues by talking to the students involved, teaching empathy and social skills, and having a system for reporting and addressing incidents. Implementing measures like **anti-bullying programs** and **anti-harassment policies** can be steps to preventing discriminatory bullying in schools.

Learn more about accommodating students with disabilities by consulting our "**Guideline on Accommodating Students with Disabilities (K-12)**"!

<https://bit.ly/3Vb778G>




## 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 schools, 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, **you can file a complaint with the Commission.**

### YOU CAN REACH US AT:

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