

Guide to Accommodations in Education for Students with Disabilities *bakerlaw*

Sometimes students with disabilities encounter barriers in accessing education. There are several informal and formal legal avenues to pursue in seeking and maintaining accommodations for students with disabilities in education. This guide is intended to highlight some of those avenues.

(1) Advocacy by parents and professionals

- Parents are effective advocates for their children. Parents can raise concerns with the school principal, as well as the superintendent if necessary
- Seeking relevant and up to date information can enhance parental effectiveness. The Ministry of Education website at <http://www.edu.gov.on.ca> is a good starting point for information about special education law and ministry policy
- Some families have success participating in healing circles and other restorative justice models, where all parties commit to the process
- Other sources of advocacy support may include a child's psychologist or psychiatrist, or other organizations that provide support
- Bakerlaw can assist parents and experts with informal advocacy strategies, and advocate on behalf of students with disabilities

(2) Application to the Human Rights Tribunal of Ontario

- Ontario's Human Rights Code requires that students with disabilities be accommodated in education up to the point of undue hardship. This is true whether or not the student is labeled with a disability. This is true whether or not the student has participated in the Identification, Placement and Review Committee ("IPRC") process
- According to the Ontario Human Rights Commission's *Guidelines on Accessible Education*, the most appropriate accommodation is one that most respects the dignity of the student with a disability, meets individual needs, best promotes inclusion and full participation, and maximizes confidentiality
- If a student with a disability is denied appropriate accommodation, the student and/or the student's parent(s) may consider filing an application to the Human Rights Tribunal of Ontario
- If all parties agree, the Human Rights Tribunal can mediate a conflict. This can allow for faster and more creative solutions
- If the Human Rights Tribunal finds that a child has been or is being denied appropriate accommodation, the Tribunal may award compensation for loss arising from discrimination, as well as for intangible loss including injury to dignity, feelings and self-respect
- Free legal advice and assistance may be available through the Human Rights Legal Support Centre
- Bakerlaw provides legal advice and representation at all stages of the process, including drafting applications and representing parties at mediation and hearings

(3) Appeal Process under Ontario's *Education Act*

- Regulations made under Ontario's *Education Act* require that an Identification, Placement and Review Committee ("IPRC") meet in certain circumstances, to determine whether a student should be identified as exceptional, the nature and type of their exceptionalities, and to decide whether the student should be placed in a regular classroom with accommodations or in a specialized classroom
- If a parent does not agree with the identification and/or placement decision made by the IPRC, he or she may appeal the decision. The appeal process can have several steps, and some have short time limitations (sometimes as short as 15 days from receipt of the decision)
- If a student is already in a special education placement and the parent(s) is appealing the IPRC decision, the placement is stayed during the appeal unless the parties agree or unless the appeal is abandoned. This means that appealing a decision may be an effective way to keep your child in their current placement (if that is your goal)
- Details on the appeal process can be found in Regulation 181/98 to the *Education Act* and on the Ministry of Education's website at www.edu.gov.on.ca
- Bakerlaw provides legal advice and representation at all stages of this process

(4) Assessments under the Autism Intervention Program

- The Ministry of Children and Youth Services provides funding for autism intervention services through its Autism Intervention Program. The Ministry website at <http://www.children.gov.on.ca> is a good starting point for information about eligibility and services in the Autism Intervention Program
- Once a child is receiving autism intervention services through the Ministry's Autism Intervention Program, the Program Guidelines require that a discharge assessment be conducted before the child is discharged from the Program
- If the Program is relying on assessment results to terminate the services that a child is receiving under the Autism Intervention Program, it may be possible to challenge the termination with an independent assessment by a qualified professional. The conclusions of the independent assessment may support continued autism intervention services in the Program
- Bakerlaw can assist in advocating on a child's behalf with service providers and the government when autism intervention services are denied or withdrawn

This guide does not constitute legal advice. For further information, or to discuss representation in any of the above areas, please feel free to contact *bakerlaw*.

Bakerlaw is a recognized leader in disability and human rights law with extensive experience representing non-profit organizations, employees, patients, students and parents from a wide range of social, economic and ethnic backgrounds.

Based in Toronto, Canada, we offer a broad range of litigation services, and also advocate for our clients outside the courtroom in mediations and negotiations, and through government relations and research work. For more information on our firm, please visit our website at www.bakerlaw.ca.