



Protections for people with disabilities who require a guide or service dog: What you need to know



This fact sheet has been created to help you understand the rights of people with disabilities in British Columbia (BC) who require a guide or service dog.

BC has a law to protect and promote human rights. It is called the BC Human Rights Code or the Code. The Code protects people from being treated badly or denied a service or benefit on the basis of certain personal characteristics. Physical disability and mental disability are both protected characteristics under the Code. A person can file a complaint with the BC Human Rights Tribunal if they believe they have been discriminated against or harassed because of their disability.

People with a disability who require a guide or service dog are protected from discrimination when accessing services available to the public. This fact sheet is about discrimination in public services. However, people with a disability who require a guide or service dog are also protected by the Code in employment and housing (see the resources at the end of this Fact sheet for more information).

* Definitions used in this Fact Sheet

In British Columbia, it is **discrimination** if you are treated badly or denied a service or benefit because of a personal characteristic, such as having a disability.

Disability is a condition that limits a person's senses or activities. It may be physical or mental, visible or invisible.

Accommodation or the **duty to accommodate** refers to what is required in the particular circumstances in order to avoid discrimination.

The Code requires service providers to accommodate people with disabilities who rely on guide or service dogs in the course of their daily lives. This means that service providers must take all reasonable steps to avoid discriminating against people with disabilities. **Service providers** include:

- Restaurants and hotels
- Recreation centres
- Taxis
- Public transit and ferries
- Stores and shopping malls
- Other facilities that are open to the public

* What sort of disabilities are guide and service dogs used for?

Many people are familiar with **guide dogs**, which assist people who are visually impaired. **Service dogs** assist people with other physical or mental disabilities, which may not always be apparent.

* The Human Rights Code and other laws

The Human Rights Code prevails over other laws where there is a conflict. Certification of guide dogs and service dogs is voluntary under BC's Guide Dog and Service Dog Act. Human rights law protects people with disabilities who rely on guide and service dogs **even if the dog is not certified under the Guide Dog and Service Dog Act.**

Service providers should not refuse service to someone who identifies that they have a disability merely because the person's guide or service dog is not certified under the Guide Dog and Service Dog Act or is not wearing a vest or other visible identifier.

* The Duty to Accommodate Persons with Disabilities

Persons with disabilities who rely on a guide dog or service dog have a right to access and use all public services and places. Service providers (including employers, landlords and strata corporations) must accommodate persons with disabilities to the point of undue hardship. This is called the duty to accommodate.

As an example, in a case called *Feldman v. Real Canadian Superstore*, the BC Human Rights Tribunal found that the store discriminated against Ms. Feldman, a blind woman, by asking her to provide identification for her guide dog before allowing her into the store. Requesting identification for a guide or service dog may be found to be discriminatory in circumstances where a person's disability and reliance on a guide or service dog is obvious. Where it is not obvious a service provider can ask if the dog is a guide or service dog.

* Accommodation to the Point of Undue Hardship

Service providers have a duty to accommodate people with disabilities to the point of **undue hardship**. This means that a service provider must show that they could not have done anything more within reason to accommodate the person.

There may be situations where the service provider cannot accommodate the individual with a guide or service dog.

The Code recognizes that the right to be free from discrimination must be balanced with health and safety considerations, but many situations can be managed without causing undue hardship. For example, in a restaurant, a customer with an allergy could be seated at a table far away from an individual and their service dog.

If a human rights complaint is filed, the service provider must be prepared to show that they could not have done anything else that was reasonable to accommodate the person with a disability. In a case called *Belusic v. Yellow Cab of Victoria*, the complainant was blind and required a guide dog for assistance. The complainant called a taxi, which arrived, but the driver drove away when he saw the guide dog. The driver lied about driving away claiming he had to pick up his son. One day before the hearing, the driver admitted to driving away because he did not want a dog in his car. The BC Human Rights Tribunal held that the complaint was justified and the respondent was ordered to pay for damages and compensation for expenses. **Thus, service providers must make every effort to accommodate a person with a disability and their guide or service dog.**

* How do I know if I have a Human Rights complaint?

To make a complaint about a discriminatory service under the *BC Human Rights Code*, all of the following must be true:

- ✓ You have a disability, or the service provider believed you have a disability
- ✓ The service provider treated you badly or denied you a service of benefit
- ✓ There is a connection between how you were treated and your disability
- ✓ The treatment occurred while you were accessing or trying to access a service that is generally available to the public

You must file your complaint within twelve months after the event happens. (Note: There are some exceptions to this time frame). Filing a complaint starts a legal process that is similar to a court proceeding.

* Dealing with discrimination and harassment

There are certain actions you could take if you are being discriminated against or harassed.

- If it is safe to do so, tell the person that their actions or comments are unacceptable and ask them to stop.
- Keep a written record of exactly what happened and when, and of what was said.
- If the discrimination or harassment happens at work, in your apartment building, or in a store or restaurant, ask your employer or landlord or the manager to do something about it.
- Use internal complaint processes to file a complaint at work or school. For example, if the discrimination or harassment occurs at work and you belong to a union, ask your union representative for help.

* Where can I get help or more information

You can get information about BC's human rights laws through the **BC Human Rights Clinic**. The Clinic can help you understand your rights under the Human Rights Code. The Clinic also provides qualifying applicants with free legal assistance for provincial human rights complaints. Talk to someone at the Clinic to see if you are eligible and to apply for services:

BC Human Rights Clinic

300-1140 West Pender Street, Vancouver, B.C. V6E 4G1
Tel: 604 622-1100 Toll Free: 1 855 685-6222
Fax: 604 689-7611
Web: www.BCHRC.net

If someone has made a complaint against you, you are a **respondent**. **Respondents** and Victoria-area **complainants** can get information by contacting:

University of Victoria

Law Centre Clinical Law Program
Suite 225 – 850 Burdett Avenue, Victoria, B.C. V8W 1B4
Tel: 250 385-1221 Toll Free: 1 866 385-1221
E-mail: reception@thelawcentre.ca

You may be directed to the **BC Human Rights Tribunal** to file your complaint. The Tribunal's website also has information regarding rights and responsibilities under the Code.

BC Human Rights Tribunal

Suite 1170 – 605 Robson Street, Vancouver, B.C. V6B 5J3
Tel: 604 775-2000 Toll Free: 1 888 440-8844
TTY (for hearing impaired): 604 775-2021
Web: www.bchrt.gov.bc.ca

In addition to protections under the Human Rights Code, the Guide Dog and Service Dog Act (GSDSA) and regulation govern how guide

and service dogs and their handlers are certified to access provisions under this Act. Certification under the GSDSA is strictly voluntary and not necessary to access public services, but it does allow certified teams to file a complaint under the GSDSA with Security Programs Division, if denied access or accommodation. For more information contact:

Ministry of Public Safety and Solicitor General Security Programs Division

Tel: 250-387-6414 Toll Free (in BC): 1- 855- 587-0185 (press option 5)
Email: guideandservicedogs@gov.bc.ca
Web: <https://www2.gov.bc.ca/gov/content/justice/human-rights/guide-and-service-dog>
Security Programs personnel are available during regular business hours: Monday to Friday 8:30 AM – 4:30 PM

This fact sheet deals with discrimination in public service, however, people with disabilities who require a guide or service dog are also protected in employment, tenancy and housing. For more information see the links below:

Employment: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/human-rights/human-rights-protection/protection-in-employment.pdf>

Tenancy: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/starting-a-tenancy/pets>

Strata Housing: <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/operating-a-strata/bylaws-and-rules/pet-bylaws>

For general information about accessibility, contact BC's Accessibility Secretariat at: <https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/accessibility/contact-accessibility-secretariat>