

Standards for Education of Children with Special Needs

Alberta Education guidelines dictate that any child with special learning needs, including those with Autism Spectrum Disorders (ASD), is entitled to have access to an education program modified to meet their specific needs in accordance with the *School Act*. Modified programs may range from complete inclusion in all classroom activities, to a specially designed program with very little classroom involvement.

Students with ASD have a broad range of abilities and challenges and their needs may change as they develop. Therefore, what one student with ASD requires in terms of accommodation may be very different than another.

To facilitate these differences it is expected that the educator and school staff will be trained to notice and understand that the unique needs of children with ASD often result in varying levels of difficulty in adapting to social settings.

Behavioural problems are often a result of these adaptive difficulties. For this reason it may be that a child with ASD who appears to be

misbehaving is actually experiencing trouble adapting.

One goal of any modified education program is to address and minimize the behavioural challenges that result as a child with ASD tries to adapt to the classroom social setting.

The *Standards for Special Education* is an important document to be familiar with as it governs special education for children with ASD in grades 1-12. The document sets out that an inclusive education setting is the first option, where appropriate, for children who require special education needs.

For more information please see:

http://www.education.alberta.ca/media/511387/special_eds_stds2004.pdf

Parental Involvement

Parents should feel welcome to be actively involved in planning the modified education program their children will be undertaking.

As every child and every family is unique, Alberta Education encourages teachers and principals to collaborate with the parents of a child with ASD. Collaboration promotes the best educational opportunity by combining the skills and expertise of the educator with the parents' special understanding of their child.

Some examples of what may be included in collaboration are:

- Ensuring a plan is in place where parents and educators are aware of their expectations and responsibilities
- Educators including parents in decision making and providing parents with the information necessary to make informed decisions
- Educators providing parents with regular progress reports

- Parents maintaining their involvement and informing the school of any changes or developments in their child's needs
- Parents and educators attempting to work through any disagreements that arise by remembering the ultimate goal of both parties is to act in the best interest of the child.
- If, for any reason, educators and parents are unable to collaborate effectively an objective third party may be included as a mediator.¹
- Any other tools parents and educators believe will help them work together to provide the specific child with the best possible education.

Teaching Students with Autism Spectrum Disorders:

<http://www.education.alberta.ca/admin/special/resources/autism.aspx>

¹ Mediators are tasked with assisting the parents and educators in reaching a mutually agreeable solution to disagreements; they are not expected, nor are they in a position, to enforce any agreement.

School Act

The *School Act* sets out the right of all school-aged children to receive education and requires public school boards to provide special education programs to students identified as having special needs.

It is an Alberta education policy that students with special education needs be placed in regular classrooms in their local schools as a first placement option. This placement option is based on a philosophy of equality, sharing, participation, and the worth and dignity of every child. It is believed that when students take part in regular school activities they have a better chance of developing to their full potential.

It is important to note that the exercise of any right or the receipt of any benefit under the *School Act* is subject to reasonable limitations. This means that although children with ASD have a right to a modified education plan, the ability of each school to provide the ideal plan may be limited to what the board considers reasonable with respect to the student's situation.

As part of the program development school boards are to provide for parental participation in any decisions that affect their child. Parents are to be given a choice of program options to the fullest extent possible.

Once an education program is created for a student it is up to the school to review and develop the program as the child progresses and his or her needs change.

Dispute Resolution

School boards are encouraged to resolve concerns that a parent or the student might have at the school and district level. If concerns go unresolved parents are suggested to contact their school board office for assistance. In the case of a private school, a parent or student should contact their school administrators for more information.

There are conflict resolution provisions in the *School Act* that offer a parent or student an opportunity to appeal a decision made by the school or school board. The *School Act* states that where an administrator or teacher makes a decision that significantly affects the education of a student, the parent or student may appeal the decision to the board.

If the appeal is completed and a parent disagrees with the final decision because their child's program does not meet the child's needs they may write to the Minister and ask for a review of the board's decision. The board has a duty to tell parents of the right to review the decision if they are not satisfied.

Remember, though, that there is no guaranteed right to review, the Minister can decide whether one will take place and will always encourage a solution where both parties accept the outcome.

The review process is very in depth and each side must submit reports, statements, correspondence and other information with respect to the student's program and placement. A Review Committee conducts interviews and reviews of the documentation provided to get an understanding of the student's needs and the program offered.

Upon the completion of the review process the Committee writes a report to the Minister with a recommendation to support or overturn the board's decision. The Minister reads the report and makes a decision as to whether the student continues with the same program or whether the board has to provide the program or funding for the desired program.

It is possible that the Minister may not accept the Committee's recommendation and made a decision he or she believes is correct. The Minister's decision is final.

Human Rights Resolution

If one of the above dispute resolution mechanisms does not provide a solution to the parent or student there is the option using the *Human Rights, Citizenship and Multiculturalism Act (HRCMA)* to challenge a school policy or a particular action by a school or school board.

As mentioned, the most immediate method of resolving an issue is to speak directly to a teacher or an administrator. If those efforts have been exhausted a complaint can be filed with the Human Rights Commission.

This option is available because schools have a duty to accommodate a child with a disability. The *HRCMA* recognizes that all persons are equal in dignity, rights and responsibilities regardless of disability. Therefore, some circumstances require that a school change their 'rules, standards, policies...and physical environments' to make sure that they do not have a negative effect on a person because of a disability.

ASD fall under the protected category of a disability. The *HRCMA* protects against negative

treatment, lack of services and lack of support from school boards for students with disabilities.

Accommodation of a child with ASD is required up to the point of undue hardship. This means that if the accommodation required by a particular child would create onerous conditions on a school or school board the accommodation is not required by law.

For example, interference with other students, safety concerns and large financial costs in relation to the size and resources of the school are all considerations that would determine whether a particular accommodation is required to be put in place.

It is important to remember that the whole process is dependent upon the unique factors of each school so what may be considered a requirement at one school may not be at another school.

During the accommodation process it is essential that parents contact the school and tell them that their child needs special accommodation as the school has no duty until they know about the disability. Parents should allow a reasonable time for the accommodation process and be open to reasonable suggestions

from the school. If a school or school board refuses to accommodate a parent should receive detailed reasons for the refusal.

If a school or school board does not provide accommodation to a child with a disability then it is possible that they are in contravention of the *HRCMA*. The person or parent seeking accommodation may file a complaint.

However, if the school or school board has offered reasonable and acceptable accommodation and the parent or child does not accept it then there is likely no legal remedy.

Examples of discrimination:

- no providing K-12 or post secondary students with disabilities with the type or amount of support sufficient to meet their needs without causing undue hardship
- not protecting K-12 students from bullying based on their disability

For more information please see the Alberta Human Rights and Citizenship Commission website:

<http://www.albertahumanrights.ab.ca/>

How to file a Human Rights complaint

As mentioned previously, it may be possible to resolve the discrimination complaint before using this process, using for example, a Minister's Review, a conversation with a teacher, or a call to the principal or superintendent.

An individual may seek advice from the Commission on how to deal with a particular instance of discrimination and then may decide to follow through with a complaint. A complaint must be filed within one year of the incident.

For information on the process of filing a claim please see the Human Rights Commission website at :

http://www.albertahumanrights.ab.ca/complaints/complaint_process.asp

Remedy under Human Rights legislation

The goal of the complaint resolution is to restore the student to the position the student would have been in had the discrimination not occurred. It is not to punish the person or persons who did not follow the *HRCMA*. An example of a successful outcome is a school being required to change a discriminatory policy or practice.

The Alberta Human Rights Commission website provides some excellent FAQs related to disability and discrimination at:

www.albertahumanrights.ab.ca/services/education/872.asp