

Tips on providing accessible legal services for persons with disabilities

Legal service providers must accommodate clients with disabilities to the point of undue hardship, as required by Ontario's *Human Rights Code*.

This resource gives information on:

- Initial contact with your office
- Scheduling appointments
- In the office
- Capacity and decisions
- Confirming mutual understanding
- Documents and signatures

The resource also gives information on some accommodations for specific disabilities. This is not an exhaustive list. We encourage you to speak to your client and contact disability-specific

organizations for more information on accommodating people with specific disabilities:

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The Ontario Human Rights Commission has a number of policies that provide further information on the various aspects of your duty to accommodate under Ontario's *Human Rights Code*. These aspects include protecting privacy rights, designing inclusive environments, respecting dignity, and many others:

http://www.ohrc.on.ca/en/our-work/policies_guidelines

Specific provisions of other legislation, such as the *Accessibility for Ontarians with Disabilities Act*, the Law Society's Rules of Professional Conduct

(<http://www.lsuc.on.ca/lawyer-conduct-rules/>) and the

Paralegal Rules of Conduct (<http://www.lsuc.on.ca/paralegal-conduct-rules/>), also apply.

Each person's disability and need for support is unique.

Your client is the best source of information about their disability and accommodation needs.

Initial contact with your office

Offer alternate methods for initial contact if needed for disability-related reasons. These may include telephone, TTY, Bell Relay, remote captioning, video remote interpretation, email, fax, walk-ins, and face to face appointments.

Use language accepted by the communities of persons with disabilities. Language and accessible practices are evolving and it is best to update information periodically by checking disability-specific resources such as the ones referred to in this tip sheet. Ask your client how they prefer to identify themselves with respect to their disability.

Scheduling appointments

When scheduling, ask what accommodations the client needs for the appointment. You have a duty to provide clients with the most appropriate accommodations.

A number of agencies provide accommodations and the cost of their services may vary. Some clients may prefer to use services that are more expensive than those your office uses. Consider context when determining how to meet your obligation to provide the most appropriate accommodations. Each situation will be different. For example, a sole practitioner or legal clinic may have more limited funds for accommodations than large law firms. Accommodations used for office meetings may not be appropriate for cross-examination at a hearing. These are only a few examples of how situations may vary.

It may take a person with a disability longer to get to a destination. Be familiar with accessible routes to your office, as well as locations for boarding and disembarking from accessible transit or parking. Consider time for pick up and drop off when

scheduling meetings.

Prepare directions to your office that avoid physical obstacles, such as steep inclines, stairs, and small elevators. For some clients, it may be useful to describe nearby landmarks. For persons with vision disabilities, you may need to describe route, slopes, obstacles, distance by number of steps, and the need to veer left or right.

In the office

Strive for a scent-free environment. Display a scent-free statement at the entrance and in correspondence.

Avoid clutter at entrances and keep doors fully open or closed. Reduce background noise and distractions in meeting spaces.

If you need to change the usual routine that you follow with a particular client, it is a good idea to explain this to the client in advance.

Service animals are working and should not be distracted. Do not touch or give them food without permission. It may be helpful to offer a water bowl for service animals.

Ask whether clients want help before assisting with bags, equipment, et cetera.

Capacity and decisions

The Rules of Professional Conduct and the Paralegal Rules of Conduct require lawyers and paralegals to maintain, as far as reasonably possible, an ordinary professional relationship with clients whose disability may affect their capacity to make decisions. Start with the assumption that the client is capable of instructing you, even when disability impacts their ability to make decisions or communicate instructions. Ensure that you fully accommodate the client's disability when assessing their capacity to instruct you.

Rule 3.2-9 of the Rules of Professional Conduct and its associated Commentary provide further guidance on this issue. Best practice requires that paralegals also follow this guidance, although it is not yet included in the corresponding Rule 3.02 of the Rules of Conduct for Paralegals or in the Paralegal Professional Conduct Guidelines.

You can find more information in the ARCH Disability Law Primer, 2013, Chapter 4, "Capacity to Instruct Counsel", <http://www.archdisabilitylaw.ca/node/807>

Confirming mutual understanding

You may need extra time and more meetings. Plan in advance, be patient and have realistic expectations for deadlines.

Offer to read written information out loud.

Strive for clear language retainers and client

communications. Clear language materials may be helpful for all of your clients. Community Legal Education Ontario has clear language materials in many areas of law in a variety of formats and languages: www.cleo.on.ca

Avoid using your own body language or gestures to communicate.

If you are not sure what the person is trying to tell you, ask after they finish communicating. It is always best to ask rather than assume that you understand. You can ask the person to repeat what they said. You might need to rephrase rather than repeat information.

As with all clients, it may be helpful to recap at the end of meetings to confirm mutual understanding of what was said. You can also consider asking clients what they understand to be the next steps in their matter.

Some clients may need a Communication Intermediary. Communication Intermediaries are trained to impartially facilitate conversation with anyone whose disability impacts their comprehension or expression of information. A Communication Intermediary may be a helpful accommodation in a variety of situations, including for clients whose disability is not specifically related to communication. You can find more information about Communication Intermediaries at <http://www.access-to-justice.org/communication-intermediaries/roster/communication-intermediaries/>

Some clients use support people to facilitate communication. For example, as a disability accommodation, some clients will need a support person to assist them with understanding information, and formulating their questions and concerns. Although they may provide important accommodations,

support persons may not have any specific training, and may not be impartial. Before the meeting begins, you should communicate with the client confidentially to ask whether they want to include these people in meetings. Depending on the nature of the legal problem, you may need to consider speaking to your client about how involving a support person might affect privilege and confidentiality. In some situations, it may be prudent to have support people sign confidentiality agreements.

Make sure you communicate with the client and do not focus on their assistive device, support person, interpreter, intermediary, intervenor, et cetera.

Documents and signatures

Some persons with disabilities sign with an 'X' or use a signature stamp, signature agent, or electronic signature. It may be prudent to include a signed statement or affidavit

from a witness who can confirm the client as the person who made this mark or stamp.

You can find more information in "Alternatives to Signing Documents for Persons who have Legal Capacity but Cannot Sign", ARCH Alert June 2017, <http://www.archdisabilitylaw.ca/node/1220>

Specific accommodations

Clients with vision disabilities

Verbally offer your arm or elbow to persons with vision disabilities, or ask whether they would like sighted guide. You can find more information about sighted guide at:

<http://www.cnib.ca/en/living/how-to-videos/Pages/The-Sighted-Guide-Technique.aspx> . Lead without pulling and only after they have accepted your offer to do so. Describe turns and obstacles along the route. Guide their hand to the back of their chair.

Do not touch a person's white cane.

Ask the person what type of correspondence they prefer, and what colour, size, font and format they need. Many people prefer 18 point or larger, in a colour that contrasts with paper or screen. Square fonts without serifs, such as **Arial**, are often considered more accessible.

Some persons read braille and/or use technologies such as screen readers or voice-activated software. Check that written communication is in a format that can be converted by their accessibility software.

For more information on accommodating clients with vision disabilities, you may wish to consult the Alliance for Equality of Blind Canadians <http://www.blindcanadians.ca/>, Balance for Blind Adults <http://www.balancefba.org/>, and the CNIB, www.cnib.ca

Clients who are culturally Deaf, oral deaf, deafened or hard of hearing

Get the person's attention with a wave of your hand or a gentle tap on the shoulder.

Ask the person how they prefer to communicate. Some persons may use Communication Access Realtime Translation (CART) for captioning. You may need to provide an American Sign Language (ASL) or langue des signes québécoise (LSQ) interpreter for people who are culturally Deaf.

Some clients may need a Deaf interpreter to work with the hearing interpreter. A Deaf interpreter may be needed in a variety of situations, including for a deaf person who uses a sign language other than ASL or LSQ, or who has difficulty understanding ASL or LSQ.

If your client needs any of these accommodations, you should book the accommodation service provider well in advance of

meetings. Accommodation service providers are often in short supply. You can ask the client about preferred providers.

Face and communicate with the person with whom you are speaking, rather than their interpreter. If you wear tinted glasses, a beard or moustache, this may make it more difficult for the person to understand.

Speak at a regular pace, not overly fast or slow. Avoid over-enunciation or increased volume which can distort the face and make lip reading difficult. You can ask if you should speak up or repeat anything. Do not use auditory clues such as coughs or pauses to communicate unspoken messages.

The Canadian Hearing Society has information on providing barrier free legal services at https://www.chs.ca/sites/default/files/uploads/law_fdn_ont_crp.pdf and communication tips at

<http://www.chs.ca/communication-tips-0>

Clients who are Deafblind

Many persons with combined vision and hearing disabilities identify as persons who are deafblind. ARCH acknowledges that there are various terms used to describe persons with this disability.

Clients who are deafblind may use an intervenor. An intervenor is trained to communicate auditory and visual information using methods such as speech, sign language and braille.

The Alliance for Equality of Blind Canadians has courtesy guidelines when interacting with persons with combined vision and hearing disabilities at <http://www.blindcanadians.ca/publications/cbm/26/courtesy-guidelines-what-should-you-do-when-you-meet-person-who-deaf-and-blind>

You may also wish to consult disability-specific organizations such as the Canadian Helen Keller Centre at <http://chkc.org/>

Clients who use wheelchairs or other mobility devices

When moving from one location to another, let the client set the pace.

Having a mobility device within reach facilitates the person's ability to move independently. Do not move it without permission. If assisting, ask the person how to handle or store it. You should not lean or rest on it.

Looking straight up is not a comfortable viewing angle. When meeting with someone who uses a wheelchair, sit or kneel to make eye contact with the person so you can hear and speak directly to each other.

For more information on accommodating clients who use wheelchairs or other mobility

devices, you may wish to consult your local Centre for Independent Living. You can find the Independent Living Centre for your area at <http://www.ilcanada.ca/il-centres/>

You may also wish to consult disability-specific organizations such as Spinal Cord Injury Ontario, www.sciontario.org/

Clients labelled with an intellectual disability

You may need to clarify language or shorten sentences, but you should have a fulsome discussion. Focus on the overall goal of the conversation. You may need to provide information in concrete ways or in chunks. You may need to schedule several appointments.

It may be useful to give plain language materials (reminders, agendas, summaries of tasks to be completed) before or after meetings. Novice readers may find it easier to read print material using serif fonts such

as **Times**.

For more information on accommodating clients labelled with intellectual disabilities, you may wish to consult People First of Ontario

<http://www.peoplefirstontario.com/>, People First of Canada <http://www.peoplefirstofcanada.ca/>, or ARCH's Respecting Rights Committee http://www.archdisabilitylaw.ca/Respecting_Rights_Committee_Workshops

Clients with learning disabilities

Ask clients how they best process information. Be aware that the strategies they use in one setting may not apply elsewhere, and difficulty learning may be greater at end of day or when the person is tired.

For more information on accommodating clients with learning disabilities, you may wish to consult the Learning Disabilities Association of

Ontario at <http://www.ldao.ca/>

Clients with mental health disabilities

If the person is distracted due to their disability or the side-effects of medication, it may be helpful to focus on the overall goal of the conversation. If a client seems too upset to instruct you, ask whether they would like to reschedule.

Medication may slow a person's speech or reactions. This should not be interpreted as a sign that they lack capacity to instruct.

Some people may have more difficulty at certain times of day, when they need to make decisions, or when deadlines are approaching. You may need to adjust accommodations and schedules at those times. Meeting reminders and summaries may be helpful.

Some clients may experience fluctuating capacity. You have an ongoing duty to assess capacity, and provide

appropriate accommodations and supports. In addition, you may consider assisting clients to plan for periods of incapacity.

For more information on accommodating clients with mental health disabilities, you may wish to contact the Empowerment Council at <http://www.empowermentcouncil.ca/index.html> or Sound Times Support Services at <http://soundtimes.com/>

You may also wish to consult the Ontario Human Rights Commission Policy on preventing discrimination based on mental health disabilities and addictions (2014) at <http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions>

Clients with communication disabilities

Some persons may use an augmentative communication system. Ask the person how to

facilitate conversation.

Instructions may be attached to the communication display or wheelchair tray. For example, Blissymbolics is a graphic language often printed on the surface of a tray.

If a person with a communication disability does not have an augmentative communication system, ask if they would like to use pen, paper or computer for key points and to confirm important information.

As discussed on page 5 of this tip sheet, some clients may use a Communication Intermediary to facilitate comprehension or expression of information.

You can find information on accommodating clients with communication disabilities, including accessible communication guidelines for police, legal and justice services on the Communication Disabilities Access Canada website at <http://www.cdacanada.com/>

The guidelines are located at <http://www.access-to-justice.org/justice-sector/guidelines-for-working-with-a-victim-or-witness/>

Clients with Environmental Sensitivities, such as Multiple Chemical Sensitivities or Electromagnetic Hyper Sensitivity

Low levels of scent can severely impact and may be life-threatening for people with Environmental Sensitivities (ES) such as Multiple Chemical Sensitivities (MCS). Strive to create a scent-free environment. Avoid carpets, use unscented cleaning products and provide air purification devices. Develop a scent free policy and display a scent-free statement at the entrance and in correspondence. When scheduling, remind anyone coming to your office not to wear scented products. Educational programs may improve compliance by staff

and community members.

If a client states that they are affected by scents or chemicals, ask how to accommodate them. To protect themselves, some clients may use protective equipment, such as masks or gloves. If construction, chemical spraying or other chemically based work is planned in or near your office, adjust schedules so that the client can avoid it. Since few commercial spaces are entirely scent free, you may need to meet with the client outside of your office, by phone, or at a time of day when there may be less exposure to scents.

Electromagnetic Hyper Sensitivity (EHS) is an environmental sensitivity to wireless exposure. Clients with EHS may need to meet remotely, using non-wireless (hard-wired) internet and phone services in their home. Ask meeting participants to turn off cellular or wireless access when meeting with a client with EHS. To facilitate court or tribunal

accommodations, you may need to provide your client with appropriate equipment, and test connections in advance.

Clients with ES such as MCS or EHS may need to reschedule appointments or have shorter appointments to minimize exposure. Due to the effects of exposures on memory, they may need accommodations such as print summaries. Exposure can cause difficulty communicating so extra time and patience may be needed.

For more information on accommodating clients with ES such as MCS or EHS, you may wish to contact the Environmental Health Association of Ontario <https://www.ehaontario.ca/index.html>

The Environmental Health Association of Quebec may also be helpful <http://www.aseq-ehaq.ca/?lang=en>

The Canadian Initiative to Stop

Wireless, Electric, and Electromagnetic Pollution may be able to give specific information on EHS <http://weepinitiative.org/index.html>

You may also wish to consult the Canadian Human Rights Commission Policy on Environmental Sensitivities (reviewed January 2014) <https://www.chrc-ccdp.gc.ca/eng/content/accommodation-environmental-sensitivities-legal-perspective> which refers to their 2007 report on Accommodation for Environmental Sensitivities: Legal Perspective <http://www.chrc-ccdp.gc.ca/eng/content/accommodation-environmental-sensitivities-legal-perspective>

For more information

Lawyers and paralegals can book an appointment with an ARCH lawyer to consult on the disability law aspects of a case or how to meet a client's disability related needs. You

can also find more information in the ARCH Disability Law Primer, 2013, Chapter 2, "Providing Legal Services for People with Disabilities" <http://www.archdisabilitylaw.ca/node/807>

The information in this tip sheet does not apply to all situations. A person's needs may vary over time and at different points in the day. Always ask the person with the disability for their preference.

ARCH would like to improve this tip sheet. Please contact us if you have suggestions.