LEGAL RESOURCES GUIDE[1]

ONTARIO AUTISM COALITION

July 2017

[1] **The information provided in this resource guide is not intended to be legal advice, nor a comprehensive listing of all legal resources and information. The Ontario Autism Coalition has tried to ensure that the information provided in this guide is accurate but we cannot guarantee that it is free of errors. Please contact a lawyer if you require legal advice about a specific matter.**

EDUCATION RESOURCES & LEGAL SERVICES

- **MAHONY ADVOCACY** – *education advocate in Ontario*
  Email: ed.mahony.advocacy@gmail.com
  Facebook: https://www.facebook.com/MahonyAdvocacy
  Website: https://mahonyadvocacy.com/

- **PRO BONO ONTARIO, EDUCATION LAW PROJECT** - *assists families with situations where children are kept out of school or away from special education services*
  Address: 393 University Ave Suite 110, Toronto, ON M5G 1E6
  Phone: 1-855-255-7256
  Website: https://www.probonoontario.org/education_law/

- **LAW SOCIETY OF UPPER CANADA, LAW REFERRAL SERVICE** – *assists people with finding a lawyer or paralegal, which includes a free consultation of up to 30 minutes, available to all residents of Ontario*
  Crisis line: 416-947-5255 / 1-855-947-5255; TTY: 416-644-4886
  Email: lsrs@lsuc.on.ca
  Website: www.lawsocietyreferralservice.ca; *www.lsrs.info*

- **JUSTICE FOR CHILDREN AND YOUTH** – *provides legal representation to low-income children and youth in Toronto and surrounding area, including youth facing conflicts with education, social service or mental health systems*[2]
  Address: 55 University Ave, 15th Floor, Toronto, ON M5J 2H7
  Phone: (416) 920-1633; Toll Free: 1-866-999-5329
  Fax: 416-920-5855
  Email: info@jfcy.org
  Website: https://jfcy.org/en/

[2] https://jfcy.org/en/about-us/

- **THE OFFICE OF THE PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH** - *acts on behalf of children and youth in Ontario, including those who are seeking or receiving services in areas such as children's mental health, developmental services and children's treatment services, along with students of the provincial and demonstration schools, First Nations children and youth, and children and youth with special needs*[3]

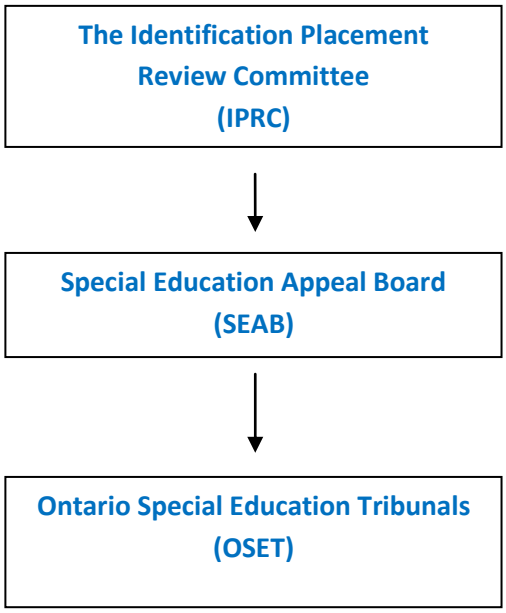
  Toronto Office (see website for Thunder Bay office details)[4]
  Address: 401 Bay St. Suite 2200, Toronto, ON M7A 0A6
  Phone: (416) 325-5669; Toll-free: 1-800-263-2841
  Fax: (416) 325-5681; TTY: (416) 325-2648
  Email: advocacy@provincialadvocate.on.ca
  Website: https://www.provincialadvocate.on.ca/

- **OFFICE OF THE OMBUDSMAN OF ONTARIO** – *investigates complaints about the actions and decisions of school boards*
  Address: Bell Trinity Square, 483 Bay Street, 10th Floor, South Tower, Toronto ON M5G 2C9
  Phone: 416-586-3300 or 1 800-263-1830; TTY:1-866-411-4211
  Fax: 416-586-3485
  Email:info@ombudsman.on.ca
  Website: https://www.ombudsman.on.ca/Home.aspx

[3] https://www.provincialadvocate.on.ca/main/en/about/aboutus.cfm
[4] https://www.provincialadvocate.on.ca/main/en/contact/

- **ONTARIO SPECIAL EDUCATION TRIBUNALS –** *hears appeals from parents, legal guardians or adult students who disagree with a school board's decision about the identification or placement[5] of students with exceptional learning needs. Before appealing to OSET, the parent must have followed the process set out under* ***Regulation 181/98 of the Education Act (see below for more information)*** *for appealing the school board's decision[6]*
  Address: 655 Bay Street, 14th Floor, Toronto
  Phone: 416-326-1356; TTY: Toll-free: 1-866-607-1240
  Fax: (416) 326-2199; Toll-free: 1-866-355-6099
  Email: oset@ontario.ca
  Website: http://www.sjto.gov.on.ca/oset/

APPEAL ROUTE



[5] http://www.edu.gov.on.ca/eng/general/elemsec/speced/identifi.html

[6] http://www.sjto.gov.on.ca/oset/what-we-do/

HUMAN RIGHTS

- **ARCH DISABILITY LAW CENTRE** – *community legal aid clinic providing legal services for Ontarians with disabilities*
  Address: 55 University Avenue, 15th Floor, Toronto, ON M5J 2H7
  Phone: 416-482-8255; Toll Free: 866-482-2724; TTY: 416-482-1254; TTY Toll Free: 866-482-2728
  Website: http://www.archdisabilitylaw.ca/

- **BAKER LAW –** *disability and human rights law firm*
  Address: 4711 Yonge Street, Suite 509, North York, ON M2N 6K8
  Phone: 416-533-0040
  Fax: 416-533-0050
  Email: info@bakerlaw.ca
  Website: http://www.bakerlaw.ca/

- **HUMAN RIGHTS LEGAL SUPPORT CENTRE** – *provides legal services to individuals in Ontario who have experienced discrimination contrary to Ontario's Human Rights Code*[7]
  Address: 180 Dundas Street West, 8th Floor, Toronto, ON M7A 0A1
  Phone: (416) 597-4900; Toll Free: 1-866-625-5179; TTY: (416) 597-4903; TTY Toll Free: 1-866 612-8627
  Fax: 1-866-625-5180 or 416-597-4901
  Email: hrlsc@hrlsc.on.ca
  Website: www.hrlsc.on.ca

- **ONTARIO HUMAN RIGHTS COMMISSION – GUIDELINES ON ACCESSIBLE EDUCATION**
  - http://www.ohrc.on.ca/en/guidelines-accessible-education/scope-application#fn3

[7] http://www.hrlsc.on.ca/en/home

ADDITIONAL RESOURCES

LEGISLATION

- **Ontario legislation: "e-Laws"**
  - https://www.ontario.ca/laws
- **Federal and provincial legislation: Canadian Legal Information Institute (CanLII)**
  - https://www.canlii.org/en/

***EDUCATION ACT*, R.S.O. 1990, c. E.2**

- https://www.ontario.ca/laws/statute/90e02

REGULATIONS UNDER THE *EDUCATION ACT*:

- O. Reg. 181/98: IDENTIFICATION AND PLACEMENT OF EXCEPTIONAL PUPILS
  - https://www.ontario.ca/laws/regulation/980181
- R.R.O. 1990, Reg. 306: SPECIAL EDUCATION PROGRAMS AND SERVICES
  - https://www.ontario.ca/laws/regulation/900306

POLICY/PROGRAM MEMORANDUM NO. 140: Incorporating Methods of Applied Behaviour Analysis (ABA) into Programs for Students with Autism Spectrum Disorders (ASD), dated May 17, 2007

- http://www.edu.gov.on.ca/extra/eng/ppm/140.html

POLICY/PROGRAM MEMORANDUM 156: Supporting Transitions for Students with Special Education Needs, dated February 1, 2013

- http://www.edu.gov.on.ca/extra/eng/ppm/ppm156.pdf>

***The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ["*CANADIAN CHARTER OF RIGHTS AND FREEDOMS*"]**

- https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html?autocompleteStr=Charter%20of%20Rights&autocompletePos=1

HUMAN RIGHTS CODE, R.S.O. 1990, c. H.19

- https://www.ontario.ca/laws/statute/90h19

ONTARIANS WITH DISABILITIES ACT, 2001, S.O. 2001, c. 32

- https://www.ontario.ca/laws/statute/01o32

ACCESSIBLITY FOR ONTARIANS WITH DISABILITIES ACT, 2005, S.O. 2005, c. 11

- https://www.ontario.ca/laws/statute/05a11

CASE LAW

- **Federal and provincial cases - Canadian Legal Information Institute (CanLII)**
  - https://www.canlii.org/en/

- **Decisions from the Ontario Court of Appeal and Supreme Court of Canada, respectively:**
  - http://www.ontariocourts.ca/decisions_index/en/
  - https://scc-csc.lexum.com/scc-csc/en/nav.do

Notable Cases

- ***Burrows (Litigation Guardian Of) v. Ontario, 2003 CarswellOnt 6336 (S.C.J.), leave to appeal to Divisional Court granted, 2004 CarswellOnt 5964 (Div. Ct.)*** *– Justice Backhouse granted minor plaintiffs interim interim relief temporarily reinstating/continuing provincial government funding for treatment (IEIP) which was terminated at the age of 6, alleged to be in breach of ss. 15 and 7 of the Charter, pending the hearing of the motion for the interlocutory injunction to reinstate the provincial government funding for the treatment. Justice Epstein granted leave to appeal Justice Backhouse's decision to Divisional Court [link below is to a Human Rights Tribunal of Ontario decision involving the same complainant; civil cases not available on CanLII but Justice Backhouse's decision is referred to in the Tribunal decision at para. 9]*

- https://www.canlii.org/en/on/onhrt/doc/2004/2004hrto6/2004hrto6.html?autocompleteStr=Burrows%20hu&autocompletePos=3

- ***Arzem v. Ontario (Community and Social Services)*, 2005 HRTO 11 (CanLII) –** *Ontario Human Rights Tribunal case alleging that the minor complainants with pervasive developmental disorders (as it was known at the time, including Autism Spectrum Disorder and Asperger's disorder) had been discriminated against by the government regarding services because of disability, in contravention of ss. 1 and 9 of the Ontario Human Rights Code. Link below is to an interim decision relating to 4 motions concerning the jurisdiction of the Tribunal*
  - https://www.canlii.org/en/on/onhrt/doc/2005/2005hrto11/2005hrto11.html?autocompleteStr=ARzem&autocompletePos=1

- ***Wynberg v. Ontario*, 2006 CanLII 22919 (ON CA)** – *Ontario Court of Appeal finds (among other things) that the failure of the Ontario government to provide autistic children age 6 and over with the Intensive Early Intervention Program ("IEIP") does not discriminate against them under s. 15 of the Canadian Charter of Rights and Freedoms (leave to appeal denied by SCC)*
  - https://www.canlii.org/en/on/onca/doc/2006/2006canlii22919/2006canlii22919.html

- ***Sagharian v. Ontario (Education)*, 2008 ONCA 411 (CanLII)** – *appeal to Ontario Court of Appeal from a pleadings motion to strike the appellants' statement of claim in a proposed class proceeding that challenges the provision of autism and education services to children with autism. Among other relief, the Court of Appeal struck the appellants' age-based discrimination claim but struck the disability discrimination claim with leave to amend (leave to appeal to SCC denied)*
  - https://www.canlii.org/en/on/onca/doc/2008/2008onca411/2008onca411.html?autocompleteStr=saghar&autocompletePos=1

- ***Moore v. British Columbia (Education),* 2012 SCC 61** (Supreme Court of Canada decision) – *the failure of the public school system to give the appellant disabled child the support he needed to have meaningful access to the educational opportunities offered by the Board was discrimination under British Columbia's Human Rights Code* [8]
  - https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12680/index.do

[8] *Moore v. British Columbia (Education)*, 2012 SCC 61 at para. 4

- ***R.B. v. Keewatin-Patricia District School Board,* 2013 HRTO 1436** - *Ontario Human Rights Tribunal case adopting the Moore decision*
    - https://www.canlii.org/en/on/onhrt/doc/2013/2013hrto1436/2013hrto1436.html?resultIndex=7

SECONDARY SOURCES

- "A New Horizon: An Education Recommendations Report Presented By the Ontario Autism Coalition to the Honourable Mitzie Hunter Minister of Education, Ontario, April 5, 2017
    - https://ontarioautismcoalition.com/wp-content/uploads/2017/04/OAC_EducationRecommendationsReport2017.pdf
- "A History of Ontario's IBI Program, Sharon Gabison and Laura Kirby-McIntosh, Ontario Autism Coalition
    - http://ontarioautismcoalition.com/wp-content/uploads/2016/05/A-History-of-Ontarios-IBI-Program.pdf
- "*An Educator's Guide to Special Education Law, Second Edition*", Brenda Bowlby, Catherine Peters, Marth Mackinnon. The Cartwright Group Ltd., 2010
    - hard copy book
- Shared Solutions: A Guide to Preventing and Resolving Conflicts Regarding Programs and Services For Students with Special Education Needs
    - http://www.edu.gov.on.ca/eng/general/elemsec/speced/shared.pdf

ONLINE WORKSHOPS

- **Learning Disabilities Association of Ontario (LDAO)**
  IEP 101 - Individual Education Plan (IEP) Online Workshop for Parents and Students
  Cost: $25
  Email: courses@ldao.ca
  Website: http://www.ldao.ca/ldao-services/workshops-courses/iep-101-online-workshop-for-parents-and-students/