

LEGAL OBLIGATIONS OF DAY CAMPS CONCERNING CHILDREN WITH DISABILITIES

Day camps, as all public services in Québec must fulfill their legal obligations to children with disabilities. The Charter of Human Rights and Freedoms, a quasi-constitutional law which has precedence over all other laws in Québec, prohibits discrimination in services offered to the public. Administrators of day camps must attempt to accommodate children with disabilities and cannot automatically refer them to a camp offering specialized services.

For example, in September 2011, the Québec Human Rights Tribunal ordered the town of Stoneham to stop excluding special needs children from its regular day camp and sending them automatically to a specialized camp. The Town was sentenced to pay \$16,000 to the family of a young girl with a mild intellectual disability and a mild autism spectrum disorder.¹

This landmark ruling underscored the **importance of integrating children with disabilities in society** and the need for day camps to individually evaluate the situation of every child with a disability and **their duty to accommodate** his or her needs, unless there is undue hardship

The Tribunal made a second relevant ruling in 2013 when it sentenced the City of Québec to pay \$9,820 in moral and material damages to the family a young autistic boy who was not allowed to sign up for an adapted day camp operated by the City.²

➤ THE PROHIBITION TO DISCRIMINATE IN THE CHARTER OF HUMAN RIGHTS AND FREEDOMS

The Charter prohibits all forms of discrimination that could prevent an individual or a group of persons to fully exercise their rights on the basis of a number of grounds, including disability. As day camps are subject to the Charter, they are obligated to accept children with disabilities and to offer them all services usually made available to the public without discrimination.

¹ *Commission des droits de la personne et des droits de la jeunesse v. Stoneham-et-Tewkesbury (Municipalité de cantons unis)*, 2011 QCTDP 15.

² *Commission des droits de la personne et des droits de la jeunesse v. Québec (Ville de)*, 2013 QCTDP 32.

Prohibited Grounds of Discrimination in the Charter

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| ✓ Age | ✓ Language |
| ✓ Social condition | ✓ Sexual orientation |
| ✓ Political convictions | ✓ Race or colour |
| ✓ Civil status | ✓ Religion |
| ✓ Pregnancy | ✓ Sex |
| ✓ Disability or the use of any means to palliate the disability | ✓ Ethnic or national origin |
| | ✓ Gender identity or expression |

➤ **WHAT SHOULD YOU DO IF YOU RECEIVE A REGISTRATION OR ACCOMMODATION REQUEST FOR A CHILD WITH A DISABILITY?**

Step n°1:

You must treat the application or the accommodation request equally and in the same way as you would any other request. As stated by the Tribunal in 2011, cities and day camps have an obligation to actively seek out a solution allowing EACH child to fully exercise his or her right to attend a day camp under the Charter. You must thus **evaluate the specific needs** of the child with a disability and the accommodations he or she could require while attending the camp **PRIOR** to ruling on the request.

Step n°2:

Any registration or accommodation request for a child with a disability must be analyzed **individually** and **on a case by case basis**. You cannot set out guidelines for a type of disability where all the solutions would be the same for all children with the same diagnosis.

Step n°3:

The search for an accommodation must be undertaken in cooperation with the **parents** or those responsible for the child, who must make the relevant information available to the day camp in order to allow it to evaluate the child's capacity to participate in the proposed activities. **Dialogue** must be at the heart of this process and the accommodation should not be a one-way process.

Step n°4:

Before rejecting the registration of a child with a disability or refusing to allow him or her to attend a day camp, **you must consider ALL possible accommodations**. Thus, if the initial accommodation request could result in an undue hardship for your organization, you must consider an alternative solution in cooperation with the parents or those responsible for the child. It is only once that all possible scenarios are analyzed that you will be in a position to make a decision concerning the registration of the child.

There is undue hardship when the accommodation request involves:

- **Important or excessive expenses** for the day camp (for example, major renovation work for which you have no external funding and the costs exceed the camp's budget);
- A **genuine obstacle to the operation** of the day camp;
- A **genuine infringement to the rights or safety of others**.

If you can **demonstrate objectively** that ALL possible accommodations would incur undue hardship for the day camp, it will be possible to turn down the registration request.

➤ QUESTIONS?

Consult our [virtual Guide on processing reasonable accommodation requests](#) (in French only) to better understand your obligations. It provides tips and tools that will help you process and adequately respond to this kind of request.

You can also contact the Commission's [Advisory service regarding reasonable accommodation](#).

The Commission's education and cooperation department also offers human rights training and information workshops: www.cdpedj.qc.ca/en/formation/Pages/default.aspx

Phone: 514-873-5146

Phone toll free: 1-800-361-6477

Advisory service regarding reasonable accommodation: 1 800 361-6477, option 6

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