

Is food allergy a disability and how does this affect Canadian schools?

EDMONTON, AB (22 October 2018)

Food allergy is legally considered a disability that must be accommodated in Canadian schools; however, food bans are not legally required accommodations, according to a [new AllerGen study](#) published on October 22, 2018, in *Allergy, Asthma & Clinical Immunology*.

AllerGen investigator Timothy Caulfield, a law professor at the University of Alberta and a well-known expert in health and science policy issues, led the research, which analyzed relevant legislation, human rights policies, and legal precedents relevant to food allergies in schools.

“Given the prevalence of childhood food allergies and the amount of time kids spend at school where they may be exposed to allergens, we set out to better understand Canadian laws and policies that apply to managing food allergies in the school setting,” says Professor Caulfield, a Canada Research Chair in Health Law and Policy, and Research Director of the Health Law Institute at the University of Alberta.

Examining the *Canadian Charter of Rights and Freedoms*, Supreme Court of Canada rulings, recent federal and provincial human rights legislation, and case law, the researchers identified instances where Canadian courts clearly determined that food allergy was a disability.

“Since food allergy is a disability, it triggers a legal duty for schools to ensure that food-allergic students receive fair treatment and are not discriminated against due to an allergy,” explains Professor Caulfield. “Despite this duty to accommodate, our research also found that in most relevant human rights cases concerning banning food allergens, it was concluded that such bans are not legally required.”

Recent scientific evidence has shown that food bans in public settings may not be effective in helping to reduce the number of severe allergic reactions when compared to public settings that do not ban foods, according to co-author Eric Adams, an associate professor in the University of Alberta’s Faculty of Law. “Some schools have implemented food bans, but recent scientific evidence does not consistently support bans as the most effective way to protect allergic children from accidental exposure to allergens,” says Adams.

According to the researchers, avoiding total bans is considered, in most cases, in the best long-term interest of all parties, including food-allergic students. “Important protections for food-allergic students and the school community will continue to include education about food sharing, vigilance, and adequate emergency response mechanisms,” says AllerGen Highly Qualified Personnel Blake Murdoch, a research associate at the Health Law Institute and first author of the study. “Of course, if the scientific evidence changes in the future, the law around food bans could change with it.”

“We hope that these findings will help to inform students, parents, teachers, and school boards involved in discussions, decision-making or controversies about the food allergy policies of schools in their communities,” adds Professor Caulfield.

“There is no need for one definitive model to deal with food allergies. We feel that the best policy advice for schools looking to craft sensible, effective, and rights-sensitive policies around food allergies is to consider the particular context of their own setting, as well as the best available scientific research on best practices for food allergy safety and management.”

About AllerGen NCE

[AllerGen NCE Inc.](#) is a national research network dedicated to improving the quality of life of people suffering from allergic and related immune diseases. Funded by Innovation, Science and Economic Development Canada through the federal Networks of Centres of Excellence (NCE) Program, the Network is hosted at McMaster University in Hamilton, ON.

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