

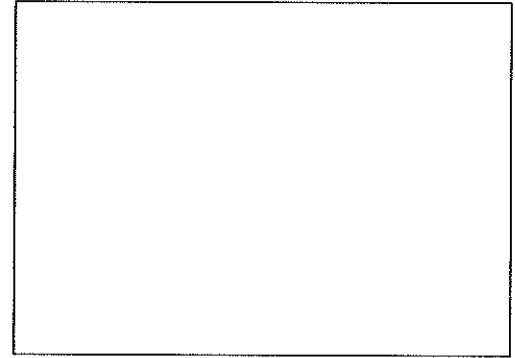


# FORM 1.3 – COMPLAINT FOR GROUP OR CLASS

Use This Form to File a Complaint for a Group or Class of Persons

## BC Human Rights Tribunal

1170 - 605 Robson Street  
Vancouver BC V6B 5J3  
Phone: 604-775-2000 Fax: 604-775-2020  
Toll Free: 1-888-440-8844 TTY: 604-775-2021



Tribunal Stamp

### GENERAL INSTRUCTIONS

- For detailed instructions select the **Help** buttons as you go or click on **All Instructions** now
- See the Tribunal's website for further information – [www.bchrt.bc.ca](http://www.bchrt.bc.ca)
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- Fill in the areas for Part I and Part II
- **Email** us your form by attaching a saved copy and sending it to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- OR click on **Print** and **fax, mail or hand deliver** a copy of your form to us
- Keep a copy of this Complaint Form and all the documents

### For assistance with filing your complaint contact

<b>BC Human Rights Clinic</b>	<b>The Law Centre</b>
Tel: 604-622-1100	Tel: 250-385-1221
Toll Free: 1-855-685-6222	
<a href="http://www.bchrc.net">www.bchrc.net</a>	<a href="http://www.thelawcentre.ca">www.thelawcentre.ca</a>

### YOUR INFORMATION

FIRST NAME: ** Okanagan Valley Association of the Deaf		LAST NAME: **	
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE): Kate Feeney			
MAILING ADDRESS: ** 208 - 1090 West Pender Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6E 2N7
<p><b>Purpose of collecting contact information:</b> The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the Respondent.</p>			
TELEPHONE: ** 604-687-3063	FACSIMILE: 604-682-7896	CELLULAR:	
EMAIL: kfeeney@bcpiac.com			

## PART I: REPRESENTATION OF THE GROUP OR CLASS

NOTE: If the remedy you seek for the group or class is the same remedy you would seek in your own complaint, file only an individual complaint. For example, if the only remedy you want is for an organization to change its policy, you would file only your own individual complaint.

### Describe the group or the class of persons:..

The class comprises of individuals who are (1) D/deaf or hard of hearing; (2) use Sign language; and (3) have experienced one or more adverse impacts because of the Respondents' policy or practice of refusing to fund Sign language interpretation for St. John Ambulance ("SJA") courses in British Columbia in order to accommodate one or more students. These adverse impacts may include:

- (i) They did not access one or more SJA courses in British Columbia;
- (ii) They had to fund Sign language interpretation out of pocket in order to access one or more SJA courses in British Columbia;
- (iii) They had to otherwise secure their own funding for Sign language interpretation in order to access one or more SJA courses in British Columbia;
- (iii) They attended one or more SJA courses in British Columbia without Sign language interpretation and experienced diminished comprehension and/or enjoyment of the course(s) as a result.

### 1. Are you a member of the group or class?..

Yes  No

### 2. Why are you filing the complaint?..

The Respondents have a long-standing policy or practice of refusing to fund Sign interpretation for SJA courses in British Columbia where it is required to accommodate D/deaf or hard of hearing students.

Based on the Complainant's organizational experiences, the experiences of its members, and its communications with the wider Deaf community in British Columbia, the Complainant understands that this policy or practice has adversely affected many D/deaf or hard of hearing individuals in British Columbia over time. The Complainant says that the scope of the harms caused by this policy are better identified through a class complaint than through an individual complaint.

### 3. Do your interests in the complaint differ from the members?..

Yes  No

### 1. Describe your communications with the group or class of persons to date:..

The Complainant has discussed the case with and obtained the support of its membership at its Annual General Meeting. It has also discussed the case with representatives and staff members from a range of organizations serving Deaf communities in BC, including the Greater Vancouver Association of the Deaf (GVAD), the Provincial School for the Deaf, the Deaf Community Foundation, the Western Institute of the Deaf and Hard of Hearing's Community Interpreting Services, and Preferred Interpreters.

### 2. Do you have any reason to believe that the group or class or some of its members may not want you to file this complaint on their behalf?..

Yes  No

### 4. Describe your plan for communicating with the group or class in the future:..

The Complainant will create an email listserv in order to provide regular updates about the case. The Complainant will advertise the email listserv on its social media, the website DeafBC.ca, as well as through other social media pages and email listservs which serve to connect the D/deaf community in British Columbia.

The Complainant's counsel will create a webpage about the case and will advertise the email listserv on this webpage.

The Complainant will additionally post updates about the case on its social media and on the website DeafBC.ca.

## PART II: COMPLAINT

### STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a supervisor, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company the group members worked for, a newspaper, a school district, a trade union, a society or a strata corporation.

#### State The Relationship of the Group or Class With Each Respondent

Respondent 1:			
NAME: ** St. John Society (British Columbia and Yukon)			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** Service provider - provincial			
MAILING ADDRESS: ** 206 - 6111 Cambie Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5Z 3B2
TELEPHONE: ** 604-321-7242	FACSIMILE: 604-321-5316	CELLULAR:	
MAILING ADDRESS: **			

Respondent 2:			
NAME: ** St. John Ambulance Canada			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** Service provider - national			
MAILING ADDRESS: ** 400 - 1900 City Park Dr.			
CITY: ** Ottawa		PROVINCE: ** ON	POSTAL CODE: ** K1J 1A3
TELEPHONE: ** 613-236-7461	FACSIMILE: 613-236-2425	CELLULAR:	
MAILING ADDRESS: **			

### STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

List the area(s) and ground(s) of discrimination that apply to this complaint:

A complaint must show that the Respondent's conduct took place in an area of daily life protected under the *BC Human Rights Code*. These are called "**areas of discrimination**".

It must also show that the person has a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**". These protected personal characteristics may be:

- actual (for example, a person's ancestry or age), or
- perceived (for example, someone thinks that a person has or may develop a disability in the future, or makes homophobic comments regardless of the person's sexual orientation).

**Not all grounds of discrimination apply to all areas of discrimination.**

Respondent 1: St. John Society (British Columbia and Yukon)
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**Area of Discrimination**

- Accommodation, service or facility     Employment     Employment advertisement     Publication  
 Purchase of property     Tenancy     Unions and associations     Wages

**Grounds of Discrimination**

- Age     Ancestry     Colour     Family Status  
 Gender Identity or Expression     Marital Status     Mental Disability     Physical Disability  
 Place of Origin     Race     Religion     Sex  
 Sexual Orientation

"Physical Disability" includes a physical condition that affects or is seen as affecting a person's abilities.

Details: Members of the class are D/deaf or hard of hearing

**Respondent 2: St. John Ambulance Canada**

The Area(s) & Grounds are the same as Respondent 1

**Area of Discrimination**

- Accommodation, service or facility     Employment     Employment advertisement     Publication  
 Purchase of property     Tenancy     Unions and associations     Wages

**Grounds of Discrimination**

- Age     Ancestry     Colour     Family Status  
 Gender Identity or Expression     Marital Status     Mental Disability     Physical Disability  
 Place of Origin     Race     Religion     Sex  
 Sexual Orientation

"Physical Disability" includes a physical condition that affects or is seen as affecting a person's abilities.

Details: Members of the class are D/deaf or hard of hearing

**STEP 3: RESPONDENTS' CONDUCT**

Answer these questions to show that the Respondent's conduct could be discrimination under the *Human Rights Code*

**Respondent 1: St. John Society (British Columbia and Yukon)****1. What did the Respondent do?**

Date (YYYY MM DD)**	What Happened? **
	Please see attached, Appendix A

**2. What is the adverse impact on the group or class you represent?..**

Please see attached, Appendix A

**3. How was each ground of discrimination a factor in the adverse impact?..**

Please see attached, Appendix A

**Respondent 2: St. John Ambulance Canada**

**1. What did the Respondent do?**

Date (YYYYMM DD) **	What Happened? **
	Please see attached, Appendix A

**2. What is the adverse impact on the group or class you represent?..**

Please see attached, Appendix A

**3. How was each ground of discrimination a factor in the adverse impact?..**

Please see attached, Appendix A

**STEP 4: PART A – TIME LIMIT TO FILE COMPLAINT**

To file the complaint on time, you must file it within six months of each Respondent's conduct (acts or omissions). If only some of the conduct happened in the last six months the complaint may be filed in time if all of that Respondent's conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether the complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

**1. Did all the conduct you say is discrimination happen in the last six months?**

Yes  No

**Respondent 1: St. John Society (British Columbia and Yukon)**

**2. Is all the conduct related or similar and, if so, how?..**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

The Respondents have a long-standing policy or practice of refusing to fund Sign interpretation for SJA courses in British Columbia where it is required to accommodate D/deaf or hard of hearing students. This policy or practice constitutes a continuing contravention.

**3. If there are gaps between the conduct, can you explain them?**

The Complainant is not aware of any gaps between the conduct.

**Respondent 2: St. John Ambulance Canada**

**2. Is all the conduct related or similar and, if so, how?..**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

The Respondents have a long-standing policy or practice of refusing to fund Sign interpretation for SJA courses in British Columbia where it is required to accommodate D/deaf or hard of hearing students. This policy or practice constitutes a continuing contravention.

**3. If there are gaps between the conduct, can you explain them?**

The Complainant is not aware of any gaps between the conduct.

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**STEP 4: PART B – TRIBUNAL MAY ACCEPT LATE COMPLAINTS**

If **ANY** of the conduct you say is discrimination happened more than six months ago, part or all of the complaint **MAY** be filed late. Answer the questions in **STEP 4: PART B**, even if you believe that all of the complaint is filed on time because it is about similar or related events with at least one event in the last six months.

The Tribunal may accept a late complaint if it decides that accepting the late-filed complaint:

- is in the public interest; and
- no one would be substantially prejudiced (harmed) by the delay.

**1. Why did you or the group or class you represent wait to file the complaint?..**

This is a continuing contravention-- the policy or practice at issue has not changed over time. The Complainant is a volunteer organization with very limited resources. Further, it has had limited access to counsel in the past.

**2. Why should the Tribunal accept the complaint?..**

This is a continuing contravention-- the policy or practice at issue has not changed over time. Further, it is in the public interest to ensure equal access to first aid training and certification for D/deaf people in British Columbia. First aid training and certification not only provides career advancement opportunities, but also life-saving skills. These skills are critical in emergency situations, from individual health crises (such as a heart attack) to large scale disasters (such as wildfires and earthquakes). Having these skills is a hallmark of social citizenship.

**3. Why would the delay in filing not cause substantial prejudice to any other person?..**

This is a continuing contravention-- the policy or practice at issue has not changed over time.

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**STEP 5: OTHER RELATED PROCEEDINGS**

The Tribunal may defer the complaint (put the complaint on hold) until another proceeding capable of dealing with the human rights complaint, such as a grievance, has been completed. If the complaint is deferred, the Tribunal will take no further steps until the deferral ends.

**Is there another proceeding?..**

Yes  No

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## STEP 6: REMEDIES

### 1. List the type of remedies you want for the group or class: ..

Remedies including: (1) an order that the Respondents cease the contravention and refrain from committing the same or a similar contravention; (2) a declaratory order that the conduct complained of, or similar conduct, is discrimination contrary to this Code; (3) an order that the Respondents change their policies to fund Sign language interpretation where required to accommodate D/deaf or hard of hearing students; (4) compensation for each class member for expenses incurred due to discrimination; (5) compensation for each class member for injury to dignity, feelings and self respect.

### 2. List any other person or organization affected by these remedies:

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## STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a "settlement meeting". This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

### Do you want to participate in a settlement meeting? ..

Yes       No

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## STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of this complaint form and the documents
- send the complaint form to the Tribunal.

### Check the following for:

I confirm that the information in this complaint form is true and accurate to the best of my knowledge and belief. ..

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## WHAT HAPPENS NEXT?

After the Tribunal has reviewed the complaint, it will tell you one of the following:

- the complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
- the complaint form is incomplete and the Tribunal will ask you for further information by a certain date
- the complaint is deferred pending the outcome of other proceedings
- the complaint cannot be accepted for filing because:
  - the complaint is not covered by the *BC Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
  - the complaint does not set out enough information to support a complaint of discrimination under the *BC Human Rights Code*
  - the complaint was filed late and the Tribunal has decided not to accept it.

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## PROTECTION FROM RETALIATION

After a complaint is filed a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint was filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the Code also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If the person you represent or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms. File it with Part I of this form (Form 1.2).



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## HELP FILING YOUR COMPLAINT

For assistance with filing the complaint contact:

**BC Human Rights Clinic**  
300 - 1140 W Pender Street  
Vancouver BC V6E 4G1  
Tel: 604-622-1100  
Fax: 604-685-7611  
Toll Free: 1-855-685-6222  
www.bchrc.net

**The Law Centre – University of Victoria Faculty of Law**  
225 - 850 Burdett Avenue  
Victoria BC V8W 0C7  
Tel: 250-385-1221  
Fax: 250-385-1226  
www.thelawcentre.ca

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## PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.

## APPENDIX A: STEP 3 – RESPONDENT’S CONDUCT

### The Parties

#### *The Complainant: the Okanagan Valley Association of the Deaf*

1. The Okanagan Valley Association of the Deaf (“OVAD”) has been advocating for and supporting the Deaf community in British Columbia’s Southern Interior for over 30 years, and is incorporated as a society pursuant to the *Societies Act*, S.B.C. 2015, c.18.
2. OVAD is active in the wider D/deaf community in British Columbia and is in regular contact with other organizations serving D/deaf communities in the province, including the Canadian Association of the Deaf, the Western Institute for the Deaf and Hard of Hearing, the Deaf Community Foundation of British Columbia, the British Columbia Deaf Sports Federation, and the Greater Vancouver Association of the Deaf.
3. In this complaint OVAD represents a class of individuals, as defined later in these submissions.

#### *The Respondent: St. John Ambulance Canada*

4. St. John Ambulance- Canada (“SJA Canada”) is a national charitable organization.
5. SJA Canada is one of a worldwide group of affiliated organizations that use the trade name “St. John Ambulance” (“SJA”) and are part of the Order of St. John, a royal order of chivalry committed to saving lives and improving healthcare around the world.
6. The two main arms of SJA Canada are:
  - a. Community services - providing first aid to people in need and at public events; and
  - b. Corporate/commercial - providing commercial first aid training programs and products to workplaces, individuals and community groups.
7. SJA Canada is one of the leading providers of commercial first aid training programs and products in Canada.
8. SJA Canada is federated and administers programs on a regional level through provincial and territorial councils.

9. SJA Canada's National Office in Ottawa supports the provincial and territorial councils and is responsible for national policies and programs for first aid training and community services, marketing, sales, and corporate services.

*The Respondent: St. John Ambulance (British Columbia and Yukon)*

10. St. John Society (British Columbia and Yukon) ("SJA- BC & Yukon") is the council that represents British Columbia.

11. SJA- BC & Yukon also delivers services and programs through municipal branches.

### **The Class**

12. The class represented by OVAD comprises of individuals who:

- a. Are D/deaf or hard of hearing;
- b. Use Sign language; and
- c. Have experienced one or more adverse impacts because of the Respondents' policy or practice of refusing to fund Sign language interpretation for SJA courses in British Columbia in order to accommodate one or more students.

13. These adverse impacts may include:

- a. A class member did not access one or more SJA courses in British Columbia;
- b. A class member had to fund Sign language interpretation out of pocket in order to access one or more SJA courses in British Columbia;
- c. A class member had to otherwise secure their own funding for Sign language interpretation in order to access one or more SJA courses in British Columbia;
- d. A class member attended one or more SJA courses in British Columbia without Sign language interpretation and experienced diminished comprehension and/or enjoyment of the course(s) as a result.

### **Terminology Used in this Complaint**

14. In this complaint, the Complainant adopts the Canadian Association of the Deaf's glossary of terms to be used in regard to deafness, which is attached as Appendix B.

15. Terms from this glossary which are used in this complaint include:

- **deaf:** A medical/audiological term referring to those people who have little or no functional hearing. May also be used as a collective noun ("the deaf") to refer to people who are medically deaf but who do not necessarily identify with the Deaf community.
- **Deaf (with capital D):** A sociological term referring to those individuals who are medically deaf or hard of hearing who identify with and participate in the culture, society, and language of Deaf people, which is based on Sign language. Their preferred mode of communication is Sign.
- **Sign language:** The official language of the Deaf community. Should always be capitalized, just as "English" and "French" are capitalized, because all three are legitimate languages.

16. According to the Canadian Association of the Deaf, the two legitimate Sign languages in Canada are American Sign Language (ASL) and la Langue des Signes Quebecoise (LSQ). The Complainant uses the term "Sign language" to refer collectively to ASL and LSQ.

### 1. What did the respondents do?

17. Based on OVAD's organizational experiences, the experiences of OVAD's members, and OVAD's interactions with the wider Deaf community in British Columbia, OVAD understands that the Respondents have a long-standing policy or practice of refusing to fund Sign interpretation for COMMERCIAL SJA courses in British Columbia where required to accommodate D/deaf students.

18. In or about 2013, OVAD arranged for SJA- BC & Yukon to provide an introductory first aid course for a group of D/deaf students ("the 2013 Group Course"). While making these arrangements, OVAD requested that SJA- BC & Yukon accommodate the students by providing ASL interpretation. SJA-BC & Yukon refused OVAD's request.

19. OVAD understands that Paige Toombs, the then Access Consultant for Provincial Deaf and Hard of Hearing Services ("PDHHS"), advocated on OVAD's behalf for SJA- BC & Yukon to provide ASL interpretation for the 2013 Group Course.

20. OVAD understands that Ms. Toombs communicated with SJA- BC & Yukon about OVAD's request, but was unsuccessful in changing its position. OVAD understands that Ms. Toombs then complained to SJA Canada, which supported SJA- BC & Yukon's position.
21. OVAD was ultimately able to hire ASL interpreters for the 2013 Group Course after securing last-minute funding from Preferred Interpreters, a Sign language interpretation company based in Vancouver.
22. Preferred Interpreters told OVAD that it was providing ASL interpreters on an exceptional basis. Preferred Interpreters also told OVAD that it viewed SJA- BC & Yukon as legally obligated to fund Sign language interpretation for D/deaf students who require this accommodation.
23. In early 2017, OVAD arranged for SJA- BC & Yukon to deliver its "Emergency First Aid-Community Care" course to 16 Deaf students on March 4, 2017 in Kelowna ("the 2017 Group Course"). It made these arrangements with the Kelowna Branch of SJA- BC & Yukon.
24. While making these arrangements, Marie Clarke, an ASL interpreter, requested on OVAD's behalf that SJA- BC & Yukon accommodate the students by providing ASL interpretation. The Kelowna Branch Manager, Vicki Kascak, denied the request in an undated letter to Ms. Clarke, on the basis that SJA- BC & Yukon is a "not-for-profit charitable organization" and as such does not provide Sign language interpretation.
25. After exhausting other potential funding sources, OVAD returned to Preferred Interpreters and requested that it fund ASL interpreters for the 2017 Group Course.
26. Preferred Interpreters agreed to again fund ASL interpreters for the 2017 Group Course. However, Preferred Interpreters reiterated that it was doing so on an exceptional basis. Further, it told OVAD that it would not be able to make this exception again and that it was providing funding on the condition that OVAD continue advocating for SJA- BC & Yukon to fund ASL interpretation for D/deaf students.
27. On November 7, 2017, Susi Bolender, founder of Preferred Interpreters, but in her capacity as a counselor for the BC School of the Deaf, contacted both the Burnaby and New Westminster Branches of SJA- BC & Yukon about arranging private first aid training for students at the BC School of the Deaf. She wrote to each Branch:

I work at the BC School for the Deaf and we are looking into arranging some basic First Aid training for some of our students. Can you let me know if you offer group training

and what would be the cost per student. Also, the instructor would require an ASL interpreter to make sure the students are able to access the information properly. Have you worked with ASL interpreters in the past? Please let us know if you would need additional information on hiring ASL interpreter and we can provide some contacts.

28. On November 8, 2017, Christie Buchanan, Branch Manager at “St. John Ambulance, Burnaby Branch” responded:

Thank you for your email. Yes we offer group training and have ran classes for BC School for the Deaf in the past. What ages are the students? We offer a lot of different courses, but depends on age and what skills are needed. Interpreters are welcome into the class for private group courses, however that is up to the customer to secure. Unfortunately we are not able to book or fund interpreters.

Once we know what course you are looking to book, we will reach out to our instructors to see who is available and for what dates. Once we confirm an instructor then we can send over the confirmation of training and finalize all details.

Look forward to hearing from you. J

29. On November 14, 2017, Lana Phommarath, Branch Manager at “St. John Ambulance New Westminster” responded:

We are currently checking with our Provincial Training with the certification standard and regulations if the first aid training is possible for the impaired hearing individuals. Part of requirement is the individual is required to able to assess and response to the casualty. Please note, St. John Ambulance will not cover extra cost for interpreters including ASL interpreters. The arrangement and cost will be set up by you and/or your party if the training is permitted.

I will update you as soon as I've received info from our Provincial. Thank you in advance for your patience.

30. In sum, SJA- BC & Yukon has failed to accommodate Deaf students who require Sign language interpretation in order to access its classes. SJA Canada has failed to ensure that a subsidiary under its charitable and corporate structures is providing programs and products that are in compliance with the *Human Rights Code* and are accessible to Deaf people.

2. **What is the adverse impact on the group or class you represent?**

31. The Respondents' conduct means that in order to access SJA courses, class members must either:
- a. Fund a Sign language interpreter out of pocket;
  - b. Secure alternate funding for a Sign language interpreter; or
  - c. Take the course without Sign language interpretation and rely on written materials and/or lip reading.
32. For these reasons, requiring class members to provide their own Sign language interpreter limits and sometimes precludes class members' access to SJA courses.
33. Having limited or no access to SJA courses has wide ranging adverse impacts on class members, including adverse impacts on class members':
- a. Emergency preparedness;
  - b. Risk of harm during emergencies;
  - c. Ability to help others in need;
  - d. Current and prospective employment;
  - e. Social inclusion; and
  - f. Social citizenship

**3. How was each ground of discrimination a factor in the adverse impact?**

34. Class members are D/deaf and use Sign language. As such, Sign language interpretation is integral to their effective communication and equal participation in their communities.
35. Full comprehension of oral and written instruction, as well as the ability to interact with the instructor and classmates and ask and answer questions, is critical to learning and being able to apply the first aid skills taught in SJA courses.
36. It cannot be assumed that class members can effectively communicate with non-signing individuals in written English or by lip reading for reasons including:

- a. Many class members do not read lips. For those who do read lips, it is virtually impossible to read lips accurately 100% of the time;
- b. Many class members do not to speak orally in order to communicate with hearing individuals; and
- c. For many class members, Sign language is their first and/or primary language. Some members of the class are not fluent in English and/or have low literacy levels in English.

37. Assuming class members can effectively communicate in written English or by lip reading and/or denying class members the right to choose their mode of communication are forms of audism. According to the Canadian Association of the Deaf, audism generally manifests in two ways:

One is the assumption or belief that people who are deaf must be encouraged (or even forced) to become as much like non-deaf people as possible. The other is to assume control over deaf people, to disempower them, by making decisions about their language(s), their education, the services they will need, and so on, with limited or no input by the D/deaf person and the Deaf community.

38. There is an ongoing history of discrimination and prejudice against class members, who continue to experience enormous barriers to equal participation in society. In the seminal case *Eldridge v. British Columbia (Attorney General)*, [1997] 3 SCR 624, the Supreme Court of Canada observed:

**56** It is an unfortunate truth that the history of disabled persons in Canada is largely one of exclusion and marginalization...

**57** Deaf persons have not escaped this general predicament. Although many of them resist the notion that deafness is an impairment and identify themselves as members of a distinct community with its own language and culture, this does not justify their compelled exclusion from the opportunities and services designed for and otherwise available to the hearing population. For many hearing persons, the dominant perception of deafness is one of silence. This perception has perpetuated ignorance of the needs of deaf persons and has resulted in a society that is for the most part organized as though everyone can hear; see generally Oliver Sacks, *Seeing Voices: A Journey Into the World of the Deaf* (1989). Not surprisingly, therefore, the disadvantage experienced by deaf persons derives largely from barriers to communication with the hearing population.



39. Unequal access to SJA courses reinforces disadvantages experienced by class members due to discrimination and prejudice. For example:

- a. D/deaf individuals experience more barriers to accessing health care and health information generally, and emergency care and emergency information specifically. Subsequently, D/deaf individuals are at higher risk of harm during their own medical emergencies and less able to assist others in accessing emergency care.
- b. D/deaf individuals are underserved before and during large-scale disasters, such as natural disasters. Subsequently, D/deaf individuals are at higher risk of harm and less able to assist others during disasters.
- c. D/deaf individuals experience higher rates of unemployment and underemployment and tend to earn lower incomes.
- d. D/deaf individuals experience higher levels of social exclusion.
- e. The abovementioned disadvantages may be exacerbated where D/deaf individuals have other personal characteristics that give rise to discrimination, including protected characteristics under BC's *Human Rights Code*.
- f. The abovementioned disadvantages may also be exacerbated where D/deaf individuals experience poverty and/or rural isolation.

40. Conversely, equal access to SJA courses may help class members mitigate some of the disadvantages outlined above including, most critically, by preparing class members to overcome challenging emergency situations and save lives.

## **APPENDIX B: Canadian Association of the Deaf's Position on Terminology**

Retrieved on January 24, 2018 from <http://cad.ca/issues-positions/terminology/>

### **Terminology**

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#### **The issue**

What are the "proper" terms and definition to be used in regard to deafness?

#### **CAD-ASC's position**

The Deaf, the deafened, and the hard of hearing are all very distinct groups. Using the proper terminology shows respect for their differences.

#### **deaf:**

A medical/audiological term referring to those people who have little or no functional hearing. May also be used as a collective noun ("the deaf") to refer to people who are medically deaf but who do not necessarily identify with the Deaf community.

#### **Deaf (with capital D):**

A sociological term referring to those individuals who are medically deaf or hard of hearing who identify with and participate in the culture, society, and language of Deaf people, which is based on Sign language. Their preferred mode of communication is Sign.

#### **deafened (Also known as late-deafened):**

This is both a medical and a sociological term referring to individuals who have become deaf later in life and who may not be able to identify with either the Deaf or the hard of hearing communities.

#### **hard of hearing:**

A person whose hearing loss ranges from mild to profound and whose usual means of communication is speech. It is both a medical and a sociological term.

#### **hearing impaired:**

This term is not acceptable in referring to people with a hearing loss. It should never be used in referring to Deaf people. "Hearing impaired" is a medical condition; it is not a collective noun for people who have varying degrees of hearing loss. It fails to recognize the differences between the Deaf and the hard of hearing communities.

#### **person who is deaf :**

Acceptable but overly sensitive substitute for "deaf".

#### **manual deaf, Signing deaf:**

A deaf person whose preferred mode of communication is Sign language.

**oral deaf:**

A deaf person whose preferred mode of communication is verbal and auditory and/or lipreading. An oral deaf person who can both Sign and speak can be considered “Deaf” if he/she is accepted as such by other Deaf persons and uses Sign within the Deaf community.

**deaf-mute:**

Unacceptable. A deaf person may choose not to use his/her voice; this does not make him/her a “mute”.

**deaf and dumb:**

Offensive.

**Deaf-plus:**

Although it has been used for many years to refer to people who have disabilities in addition to deafness, the preferred terms now are “Deaf with mental disabilities”, “Deaf-blind”, “Deaf with CP”, etc.

**Sign language:**

The official language of the Deaf community. Should always be capitalized, just as “English” and “French” are capitalized, because all three are legitimate languages.

**TTY:**

The proper acronym for the special devices used by deaf, hard of hearing, and hearing people to communicate with each other through the telephone system. The French term is ATS.

**TDD:**

No longer acceptable as the acronym for special telephone devices. (See the CAD-ASC’s position paper on TTY/TDD.)

**TT (Text Telephone):**

Used in some European countries and by the Federal Communications Commission of the United States as a substitute term for “TTY”. Not accepted in Canada because it is a hearing-invented term and because the Sign for it is impolite in ASL.

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