Submission to the Canadian Bar Association
CBA Child Rights Toolkit – 2026 Update
Strengthening Advocacy for Autistic and Disabled Children
Submitted by: Autism Ontario
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Autism Ontario welcomes the opportunity to contribute to the 2026 update of the CBA Child Rights Toolkit. As an organization with a history of over 50 years supporting autistic children, youth, and their families across Ontario, we understand how legal and administrative systems shape autistic children's daily experiences of dignity, inclusion, education, health care, and justice.

The Child Rights Toolkit provides a strong and flexible children's rights-based framework. However, autistic and disabled children are largely addressed implicitly rather than explicitly. As a result, disability often appears in the Toolkit as a service or clinical issue rather than a legal and human rights framework, leaving advocates to infer how core principles (such as best interests, participation, and capacity) apply in disability-specific contexts. This lack of explicit analysis has material consequences for autistic and disabled children's access to justice, health care, education, housing, and other social systems that influence health outcomes.

Our submission suggests key gaps in the current Toolkit relating to autistic and disabled children and proposes opportunities for enhancement. Our intent is to strengthen the Toolkit for use by legal professionals working with autistic and disabled children and emphasize how systemic inequities fundamentally shape how their rights are experienced, interpreted, and too often constrained.

Gap 1: Limited Engagement with UNCRC Article 23 (Children with Disabilities)

While the Toolkit broadly references the UNCRC, Article 23 is not highlighted or meaningfully integrated, nor is General Comment No. 9, which emphasizes that social and systemic barriers are the primary source of rights violations.

Recommendation

Add a dedicated subsection within **Fundamentals** or **The Child: Cross-Cutting Themes** on Children with Disabilities (UNCRC Article 23) to include dignity and autonomy, environmental and procedural barriers, and participation with supports. This addition would explicitly frame disability as a fundamental rights issue, not an exception.

Gap 2: Participation, Capacity, and Autistic Communication

Autistic children are frequently presumed incapable and excluded from proceedings due to communication differences and insufficient accommodations and appropriate supports. They are also more often subject to substituted decision-making rather than supported decision-making that would promote respecting the views of the child.

The Toolkit does not account for neurodivergent communication, alternative and augmentative communication (AAC), nor procedural accommodations required for meaningful participation. This gap risks reinforcing exclusion under the guise of protection.

Recommendation

Expand the guidance on participation of disabled and neurodivergent children in **Capacity**, including presumption of capacity with appropriate supports, the duty to accommodate communication differences, and recognition that participation and communication may look different for autistic children.

Expand the guidance on working with children with communication disabilities or differences in the **Practice Essentials** section of the **Four Steps to Implement Child Rights,** including suggestions for community-based and lived experiences, and the role of community organizations and service providers.

Gap 3: Education as a Primary Site of Rights Violations

For autistic children, education systems are often the most frequent site of rights infringement, including exclusion and segregation, the use of physical restraints and seclusions, denial of disability-based accommodations, and informal disciplinary removals and expulsions from school.

The Toolkit's **Education** and **Freedom From All Forms of Violence** sections do not explicitly frame inclusive, dignified, and safe education as a rights obligation, nor does it integrate disability discrimination or accommodation principles.

Recommendation

Strengthen the **Education** and **Freedom From All Forms of Violence** sections by explicitly recognizing safe and inclusive education as the default rights-based approach, highlighting limits on exclusion justified by "best interests," and referencing additional human rights caselaw and Ontario Human Rights Commission policies and reports, including the Dreams Delayed report and the Policy on Accessible Education for Students with Disabilities.

Gap 4: Disability Bias in Youth Criminal Justice and Child Protection Systems

Autistic and disabled children are over-represented in youth criminal justice and child welfare systems due to misinterpretation of disability-related behaviours and care needs, insufficient social supports portrayed as criminal activity and parental failures, and systemic bias falsely equating disability with violence and "risk." Current youth criminal justice and child protection guidance in the Toolkit does not explicitly address disability-related bias or the duty to accommodate families before pursuing removal of their children.

Recommendation

Incorporate a disability-informed lens in the **Youth Criminal Justice** and **Child Protection Systems** sections, emphasizing that disability does not mean neglect, violence or criminal activity, reinforcing the duty to provide supports and accommodations, and flagging heightened risks to disabled children once in custody or care.

Conclusion

Thank you for the opportunity to contribute to the update of the Child Rights Toolkit. If it would be helpful, we welcome you to include Autism Ontario resources for additional guidance when working with autistic children.

We would be pleased to help support or co-create updated or additional Toolkit content based on the above recommendations, should the opportunity arise.