

STEPS TO JUSTICE

Health & Disability Law Workshop

An OJEN facilitator's guide demonstrating a CLEO public legal information resource.



ONTARIO JUSTICE EDUCATION NETWORK
RÉSEAU ONTARIEN D'ÉDUCATION JURIDIQUE



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



About this workshop guide

This workshop guide is a collaboration between the **Ontario Justice Education Network (OJEN)** and **Community Legal Education Ontario (CLEO)**. OJEN's Steps to Justice workshops introduce audiences to common legal problems and familiarize them with a specific area of law. Using hypothetical scenarios, workshop participants explore a legal topic by navigating the practical step-by-step information on CLEO's Steps to Justice website. They learn how to use the website to find legal information, including the forms, self-help guides and referral information for legal and social services which may be helpful in working through a future legal problem.

This workshop guide was written for use in Ontario high school classrooms, but can be used (or modified) for other audiences. For more information on how to use this workshop guide, please check out our short training video available on the OJEN website ojen.ca/steps-to-justice-workshops-training-video.

OJEN is a charitable, non-profit, public legal education organization. We develop innovative educational tools that introduce young people to the justice system, help them understand the law, and build their legal capability. We partner with schools and community organizations across Ontario to prepare young people to manage the legal problems that will arise in their lives. For more information on OJEN, please visit ojen.ca.

We gratefully acknowledge the support of law students who have contributed to this workshop guide through the Osgoode Public Interest Requirement (OPIR) at Osgoode Hall Law School and through placements with Pro Bono Students Canada (PBSC). We would also like to thank the high school students who provide us with their perspectives and feedback on this resource as OJEN summer interns through the Law in Action Within Schools (LAWS) Summer Job Program.

Any legal information in this resource is intended for general educational purposes and should not form the basis of legal advice of any kind. Individuals seeking specific information about their legal problem should always consult a lawyer.

For over 45 years, **CLEO** has developed clear, accurate, and practical legal rights education and information to help people understand and exercise their legal rights. We produce print and online resources, including the Steps to Justice website, the Family Law Guided Pathways, and CLEO Connect which has information and supports for community organizations. For more information on CLEO, please visit cleo.on.ca.

STEPS TO JUSTICE HEALTH & DISABILITY LAW OVERVIEW

Activity (minutes)	Content
Warm-up (5)	<ul style="list-style-type: none"> • Clarify differences between criminal and civil law. • Group quiz on health and disability law (Slides 2-6). • What are the major areas covered by health and disability law? (Slide 7).
Hook (5)	<ul style="list-style-type: none"> • Advance to Slide 8 and briefly review the human rights information provided, giving examples of how it might be relevant to health and disability law. • Advance to Slide 9 and read the demonstration scenario out loud. • Encourage participants to identify potential legal issues in the scenario. • Switch to Slide 10. Explain that the Steps to Justice website is a tool that can help people understand what they need to do when they have legal problems like this one. The group will next use it to answer questions related to the scenario.
Introduce Steps to Justice (10)	<ul style="list-style-type: none"> • Distribute the student handout, "Scenario 1: Demonstration." • Advance to Slide 11. Read the questions about the demonstration scenario out loud. • Pull up the Steps to Justice website on the display screen. • As a group, use the Steps to Justice to find answers to the questions about the demonstration scenario on the slide. • Use different searching options (sub-topics, front page keyword search, and header menu) and introduce the actual "steps" to follow. Use the presenter's notes on where to find the information included in this guide for support. • Ask if anyone has questions.
Group work (25)	<ul style="list-style-type: none"> • Advance to Slide 12. • Divide participants into groups and cue them to pull up Steps to Justice on phones/computer and to start on the health and disability legal topic. • Give each group a scenario worksheet (scenarios 2-5). • Each group needs at least one device with internet to complete their worksheet. • Circulate and support the groups as needed.
Discussion (15)	<ul style="list-style-type: none"> • Each group has 3-5 minutes to explain their scenario and what they have learned through their investigation. Participants should refer to the completed worksheet for support. • Address questions and issues arising from their reporting.
Application (Optional)	<ul style="list-style-type: none"> • Advance to the final slide. • Since the group has practiced using the Steps to Justice website, the presenter may introduce a more complex scenario. • Participants should comment on it reflecting what they have just learned. • As a group, use the website to answer the scenario questions. • Facilitator's notes are included in this guide to support discussion.



Health and Disability Law

TRUE OR FALSE



- 1. I had a bad fall at my job and now I can't work. I applied for financial help from the Workplace Safety and Insurance Board (WSIB), but if they say no, there will be no other options for me!**

F – There are several other programs that provide financial support for people who are temporarily not working or are not able to work, such as Ontario Works (OW), the Ontario Disability Support Program (ODSP), and Canada Pension Plan (CPP). There are different eligibility criteria for each of these programs.
- 2. I have a disability, but I won't be able to collect Canada Pension Plan (CPP) disability benefit payments since my job did not cause my disability :(**

F – You can get CPP disability benefits even if your job did not cause your disability
- 3. If I return to work full-time, my CPP disability benefits will stop.**

T – CPP benefits stop when you go back to work
- 4. I can ask Ontario Disability Support Program (ODSP) to give all of my benefits to my spouse, because she is better with money than I am.**

F – The ODSP can only pay your income support to you or to someone you owe money to.
- 5. One of my workers is refusing to do their job because they say it is unsafe. But they can't complain, because other people do the same job all the time with no problems!**

F – You can refuse to do a task at work if you think it's dangerous. It does not matter if other people did the task before and didn't have an accident.

Facilitator's Package Scenarios



Start on the Steps to Justice question, “Can I work or go to school if I’m getting CPP disability benefits?” under **Can I work or go to school if I’m getting CPP disability benefits?** Follow the numbered steps on the left side of the landing page to answer the questions. The relevant steps are listed in brackets following the question.



Scenario 1: Demonstration

Last year, I got in a car accident that left me disabled. It has been rough having to stay at home – I feel like my brain is melting! I’ve applied to college so that I can get back out into the world and learn things. The college accepted me and offered me an internship that pays \$5,000. It sounds great, but I’m worried I will lose my CPP income if I go back to school.

Start on the Steps to Justice topic, “Canada Pension Plan disability benefits (CPP)” with the question, “Can I work or go to school if I’m getting CPP disability benefits?”

- Will this person lose her CPP disability benefits if she goes back to school? (**Landing page**)
- Assuming that she could go to school and keep her CPP income, can she also accept the internship? (**Landing page**)
- What information could Service Canada ask for if they reconsider her disability status? (**Step #1**)
- If she loses her CPP disability benefits, can she receive them again later if her disability comes back? (**Step #3**)
- What are the criteria for determining whether your CPP disability benefits can restart? (**Step #3**)

Discussion

CPP can review cases to make sure people are still eligible to receive disability benefits. The review process is called a “reassessment”. If you go back to school full time, you might lose your benefits if CPP decides that going to school means you are able to work. However, if CPP determines that you are entitled to keep your benefits while attending school, you are allowed to earn a certain amount of money without losing your disability benefits. The amount changes every year and usually gets larger. In 2017 the amount you could keep was \$5,500, so it is likely that the research internship would be allowed.

If CPP reassesses you, you will have to provide information about whether your medical status has changed or whether you have worked since beginning to get CPP benefits. If CPP reassesses you and cancels your benefits, you can receive them again if your disability returns. This is called “restarting” your benefits. To restart benefits, you have to show that:

- Your benefits stopped less than 2 years ago because you returned to work
- You can't keep working because the same disability has returned or you've developed a related disability
- You're younger than 65
- You're not getting the CPP retirement pension

If you acquire a new, different disability, though, you need to start a new application to receive benefits for that disability.



Scenario 2

I have an ongoing medical condition and I often need to travel out of town to meet with a special psychotherapist. I need to do an intensive therapy program with him which requires us to meet a few times over the course of a week. I want to know if the Ontario Disability Support Program will help me cover the cost of travelling for treatment.

Start on the Steps to Justice topic, “Ontario Disability Support Program” with the question, “Will ODSP help pay my costs when I travel for medical treatment?”

- Will ODSP help for travel costs associated with medical treatment? (**Landing page**)
- What kind of treatment qualifies for travel costs? (**Step #1**)
- What are some examples of travelling costs that ODSP will cover? (**Step #2**)
- When will ODSP pay for your travel outside of Canada (**Step #2**)
- How do you apply for ODSP travel costs? (**Step #3**)

Discussion

If you receive income support from ODSP, the program may also help to pay for travelling for medical treatment, provided that your travel costs are more than \$15 per month. To qualify, the treatment must be delivered by a regulated health care provider (like a doctor). This includes participating in a local addiction or recovery group or mental health therapy that has been prescribed by a doctor or psychologist. ODSP can help cover travel costs for things like taxi fare, parking and ambulance fees. It can also pay for travel outside of Canada, but only if the Ontario Health Insurance Plan (OHIP) agrees to pay for the treatment. To apply for this benefit, you need to use the [Mandatory Special Necessities Benefit Request form](#). You can get this form from your ODSP case worker, but a doctor or nurse practitioner needs to complete the form. A psychologist can complete it if the treatment is related to addiction.



Scenario 3

I work at a hardware store, but I had a back injury last year and I haven't been able to come into work since then. My job keeps calling me to see how I'm doing and to ask about when I can return to work. I don't feel like I'm fully healed, but my doctor thinks I should be able to start working again soon. I'm not sure what I'm supposed to do.

Start on the **Steps to Justice** topic, "**Workplace injury**" with the question, "**How do I go back to work after an injury?**"

- What factors determine when you can return to work after an injury? (**Landing page**)
- Does your employer have to offer you a different job while you are injured? (**Landing page**)
- What is an "accommodation" for returning to work? (**Step #4**)
- When can an employer refuse to make accommodations for your return to work? (**Step #4**)
- Who can you talk to if you need advice about returning to work? (**Step #5**)

Discussion

Many people experience work-related injuries that require time away from work and it can be confusing to know when to return. If you and your employer disagree about whether you are ready, the Workplace Safety and Insurance Board (WSIB) can do an evaluation called a "return to work decision". First they will consider whether you are healthy enough to do the main duties of the job you had prior to your injury/accident. If not, they consider whether there is another job available with that employer or another employer that is safe for you to do and that makes use of your skills. If possible, this job should also pay you the same amount as your original job.

Workplace injury laws can help make sure you don't lose your job permanently because of being hurt at work. This might include requiring your employer to make changes in your job. For example, if your employer has 20 or more employees and you have been working there for over a year, your employer may have to offer you a different job if: (Cont.)

- Your doctor says you won't get any better, either in the short-term or long-term, **and**
- Your doctor or other health specialists say you're not able to do the essential duties of your old job even if your employer makes "accommodations"

Accommodations are ways to change your work to remove barriers that could prevent you from working. You might need physical changes like providing a stool to sit on, or computer software that helps you read from a computer screen. It might also mean making changes in the work itself or in the workplace, like changing your job duties or allowing more flexibility in your work schedule. Employers can only refuse to make accommodations if they can show that these changes would cause them "undue hardship". This means the changes would either cost the employer too much or cause a serious health and safety risk to other workers. There are many reliable sources of help if you need advice around returning to work, such as a union representative, the Office of the Worker Advisor, a community legal aid clinic, or injured workers' groups.



Scenario 4

I am the mother of two children and I have a permanent disability. I got divorced last year and I've been struggling financially since then. I haven't heard from my ex-husband since the marriage ended. I have been receiving benefit payments from the Ontario Disability Support Program (ODSP) because of my disability but without his income, it is not enough to live on. Is there any difference in the financial support I can get from ODSP now that I am a sole-support parent?

Start on the Steps to Justice topic, "Ontario Disability Support Program" with the question, "My spouse and I have separated. What will happen when I apply for ODSP income support?"

- When would ODSP grant this person income support as a sole-support parent? (**Landing page**)
- How much money would they get from ODSP? (**Follow the "How much you get from ODSP" link on the landing page, then download the rate sheet**)
- Why might ODSP decide that two people are still a couple? (**Step #1**)
- How do you prove to ODSP that you are legally separated? (**Step #1**)
- How do you appeal a decision from ODSP? (**Step #3**)

Discussion

The Ontario Disability Support Program (ODSP) can help with income assistance for a sole-support parent if you and your spouse have separated **and** do not plan to get back together. How much you can receive varies depending on a number of factors. As of September 2018, ODSP would provide a maximum of \$1895 per month for a single parent with two children, like the person in this scenario.

Even if you and your spouse are separated and not planning to get back together, ODSP might still consider you a couple if one partner is away at school, or looking for work somewhere else, or in another country waiting for a visa to come to Canada. They might also decide that you are a couple if they think that you might still get back together even if you are having relationship problems.

However, you can prove that you are legally separated by providing evidence like a legal separation agreement, court papers showing that you are in the process of separating, or financial records showing that you and your former partner are keeping your money separate. If ODSP decides that you are still a couple, you will get less financial support than you would as two single applicants.

To appeal an ODSP decision, you can ask for an internal review. If this is unsuccessful you can appeal to the Social Benefits Tribunal, which has the power to make a different decision.



Scenario 5

I recently had a catastrophic injury and applied for disability benefits from Canada Pension Plan (CPP). It has been a few months and I have not heard anything yet, and I am getting quite anxious. I wish I knew how the process works. I don't know if I qualify or how long it will take for me to start getting the support that I need.

Start on the Steps to Justice topic, “Canada Pension Plan disability benefits” with the question, “What happens after I send in my application for CPP disability benefits?”

- Where does CPP get the information it uses to decide if you are eligible for disability benefits?
(Landing page)
- Why might CPP may contact you after you send in your application? (Step #1)
- How does CPP decide whether a disability is “severe and prolonged”? (Step #2)
- Can you receive CPP benefits to cover the time between when you apply and when you learn if you are eligible? (Step #3)
- Why would CPP stop giving someone benefits? (Step# 4)

Discussion

The Canada Pension Plan (CPP) is a fund that is managed by the government of Canada. Employers and workers contribute money to the fund so that workers or their families can receive income support from the fund to partially replace earnings in some situations like retirement or disability that prevents them from working. If you experience disability and apply to this fund, CPP will rely on the information from you, your doctor, former or current employers, and other, to determine whether you are eligible. They might contact you after you apply for a number of reasons, like to make sure you understand how the application process works or to get another doctor to assess your disability.

To qualify for CPP benefits, they must find that your disability is both **severe** (serious enough to prevent you from doing any work) and **prolonged** (it will last a long time or is likely to lead to death). (Cont.)

To make this decision, they will look at what medical condition you have and how severe it is, how your condition or its treatment affect your ability to work and how likely you are to recover or get worse. It can take as little as four months to have a decision made, but if you are found eligible, you can receive retroactive benefits for up to fifteen months before the date you applied. You will receive the benefits until:

- you turn 65 years of age or start getting a CPP retirement pension, or
- you go back to work, or
- you are able to work on a regular basis and make more than the amount set by CPP, or,
- you go back to school full-time, in some cases.



Display: Large Group Practice Scenario 6

I work for a construction company. I got hurt on the job and it has caused me ongoing back problems. I can't lift anything heavy, so I can't do my job right now. I have been receiving WSIB benefits and everything was fine until my job asked me to see a doctor for a "medical assessment".

My boss does not believe that I am suffering from an ongoing injury. I spoke to my doctor, and he said that it would be a good idea to do the assessment. My doctor thinks that I can lift properly now and that I can slowly transition back to work in about a month. I do not agree. I am in a lot of pain, and there's no way I can go back to work!

My workplace called me and said that if I refuse the medical assessment, they will report me to the WSIB. I don't want to lose my benefits! Can I be forced go to this medical assessment? And, if they decide that I have to go back to work, can I just apply to ODSP and claim that I have a disability?



Scenario 6: Focus Questions

Students can draw from their learning to identify potential legal issues and questions to investigate. The main issues here pertain to 1) medical assessments requested by an employer and 2) disability qualifications for ODSP.

Start from the topic “Injured at work– I have a work injury and my employer wants me to go for an “assessment”. What should I do?” Consider question lines like:

- Why might an employer ask you to participate in a medical assessment?
- What happens if you refuse a medical assessment?

Start from the topic “Ontario Disability Support Program – When I apply to the Ontario Disability Support Program, how do I prove that I have a disability?” Consider question lines like:

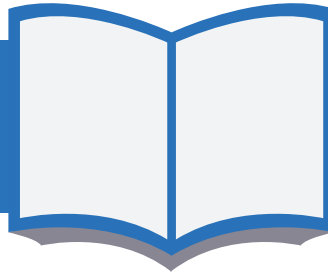
- How do you qualify for ODSP?
- How do you prove to ODSP that you are a person with a disability?

Through their analysis, students should be able to conclude that an employer might ask you to take a medical assessment if you have a work injury and are away from work or are working but haven't returned to your regular duties. They should also acknowledge that refusing the request may result in the employer informing the WSIB, which in turn may result in the Board determining that you **MUST** attend the medical assessment. Failing to go may result in suspension or reduction of benefits.

The individual in this scenario is thinking about applying for ODSP. Students should identify how to qualify for ODSP, particularly with respect to how you prove you are a person with a disability. This person would probably not receive ODSB benefits. According to the ODSP definition, a condition needs to last at least a year to qualify as a disability, but their doctor thinks they will be ready to go back to work in about a month.

Participant Handouts

Scenarios



Scenario 1 Worksheet: Demonstration

Last year, I got in a car accident that left me disabled. It has been rough having to stay at home – I feel like my brain is melting! I've applied to college so that I can get back out into the world and learn things. The college accepted me and offered me an internship that pays \$5,000. It sounds great, but I'm worried I will lose my CPP income if I go back to school.

Start on the Steps to Justice topic, "Canada Pension Plan disability benefits (CPP)" with the question, "Can I work or go to school if I'm getting CPP disability benefits?"

- Will this person lose her CPP disability benefits if she goes back to school?
- Assuming that she could go to school and keep her CPP income, can she also accept the internship?
- What information could Service Canada ask for if they reconsider her disability status?
- If she loses her CPP disability benefits, can she receive them again later if her disability comes back?
- What are the criteria for determining whether your CPP disability benefits can restart?



Scenario 2 Worksheet

I have an ongoing medical condition and I often need to travel out of town to meet with a special psychotherapist. I need to do an intensive therapy program with him which requires us to meet a few times over the course of a week. I want to know if the Ontario Disability Support Program will help me cover the cost of travelling for treatment.

Start on the Steps to Justice topic, “Ontario Disability Support Program” with the question, “Will ODSP help pay my costs when I travel for medical treatment?”

- Will ODSP help for travel costs associated with medical treatment?
- What kind of treatment qualifies for travel costs?
- What are some examples of travelling costs that ODSP will cover?
- When will ODSP pay for your travel outside of Canada?
- How do you apply for ODSP travel costs?



Scenario 3 Worksheet

I work at a hardware store, but I had a back injury last year and I haven't been able to come into work since then. My job keeps calling me to see how I'm doing and to ask about when I can return to work. I don't feel like I'm fully healed, but my doctor thinks I should be able to start working again soon. I'm not sure what I'm supposed to do.

Start on the Steps to Justice topic, "Workplace injury" with the question, "How do I go back to work after an injury?"

- What factors determine when you can return to work after an injury?
- Does your employer have to offer you a different job while you are injured?
- What is an "accommodation" for returning to work?
- When can an employer refuse to make accommodations for your return to work?
- Who can you talk to if you need advice about returning to work?



Scenario 4 Worksheet

I am the mother of two children and I have a permanent disability. I got divorced last year and I've been struggling financially since then. I haven't heard from my ex-husband since the marriage ended. I have been receiving benefit payments from the Ontario Disability Support Program (ODSP) because of my disability but without his income, it is not enough to live on. Is there any difference in the financial support I can get from ODSP now that I am a sole-support parent?

Start on the Steps to Justice topic, "Ontario Disability Support Program" with the question, "My spouse and I have separated. What will happen when I apply for ODSP income support?"

- When would ODSP grant this person income support as a sole-support parent?
- How much money would they get from ODSP?
- Why might ODSP decide that two people are still a couple?
- How do you prove to ODSP that you are legally separated?
- How do you appeal a decision from ODSP?



Scenario 5 Worksheet

I recently had a catastrophic injury and applied for disability benefits from Canada Pension Plan (CPP). It has been a few months and I have not heard anything yet, and I am getting quite anxious. I wish I knew how the process works. I don't know if I qualify or how long it will take for me to start getting the support that I need.

Start on the Steps to Justice topic, “Canada Pension Plan disability benefits” with the question, “What happens after I send in my application for CPP disability benefits?”

- Where does CPP get the information it uses to decide if you are eligible for disability benefits?
- Why might CPP may contact you after you send in your application?
- How does CPP decide whether a disability is “severe and prolonged”?
- Can you receive CPP benefits to cover the time between when you apply and when you learn if you are eligible?
- Why would CPP stop giving someone benefits?