

Access to Services (COVID-19) Act – Revised Q & As

February 15, 2022

Revisions have been made to the Q&As regarding the Access to Services (COVID-19) Act first distributed on December 3, 2021. These revisions (new, changed, or deleted language) are highlighted below for your reference.

General

Is the Access to Services (COVID-19) Act **still** in force?

- Yes. The Act came into force when it received Royal Assent on November 25, 2021 and it remains in force today.
- The Act will remain in force until July 1, 2023, unless it is repealed earlier by regulation.

Are all public and independent schools protected?

- Virtually all public and independent schools are protected.
- The exceptions are any public or independent schools that are located on Treaty lands, or federal lands, such as DND bases or reserve lands.
- There is authority to extend the Act's protections to schools on those lands in future by regulation, if requested by Indigenous partners or the federal government. To date, no such request has been made.

Access Zones for Schools

What is the size of an access zone for a public or independent school?

- An access zone for a protected public or independent school includes the entire parcel of land on which the school is located and extends out 20 metres from the parcel's boundaries or property line.

What about for a non-traditional school facility – such as one located in another building? What is the access zone for that kind of school?

- The access zone for a non-traditional school facility is still the entire parcel where the building housing the school facility is located, plus 20 metres beyond the property line for that parcel.
- For example, if an independent school is located in a multi-use building, the access zone for that school includes the entire parcel on which the multi-use building sits, and extends out 20 metres from the boundaries of that parcel.

What is covered within an access zone for a school?

- The access zone covers everything located within the parcel on which the school sits – such as parking lots and playgrounds on that property.
- If a playground or parking lot is not located within the school's property – i.e. a parking lot is located across the street, or the play space is on adjacent municipal land – then those amenities are not included within the access zone, because they are outside the boundaries of the school parcel.
- There are presently no separate protections in place for facilities like parking lots or playgrounds when being used by students or school personnel if those facilities are located outside an access zone. There is an authority to extend the Act's protections to other facilities by regulation if it becomes necessary.

Are board office facilities protected under the Act?

- No. Board office facilities themselves are not protected under the Act.
- The only exception would be if the board office is co-located in a multi-use building that also houses space at which students regularly receive instruction in an educational program. In that case, an access zone would exist around the whole parcel on which the building is located and would extend out 20 metres beyond the property line.

When are access zones in place for schools?

- Access zones for schools are in place:
 - from 7 a.m. to 6 p.m. on weekdays, excluding holidays, and
 - at any time an extracurricular school activity is taking place.
- The time limits were designed to ensure that access zones would exist during the time periods when it is anticipated that students and school staff would be on site.
- If there are extracurricular activities taking place on school property that are not associated with the school or school district – for example, a rental of school playing fields on the weekend by a community sports organization – the access zone will not be in place during that activity.

What if there is a COVID-19 vaccination site or a COVID-19 testing site on school grounds?

- An access zone for a school includes the whole parcel, so would capture a COVID-19 vaccination or testing site that is located somewhere on school property and that is occurring between 7 a.m. and 6 p.m. on weekdays, excluding holidays.
- If a COVID-19 vaccination or testing site is located on school property before 7 a.m. or after 6 p.m. on weekdays, or on a weekend or holiday, an access zones would apply to the vaccination or testing site itself. In that case, the access zone would include ~~the site providing the vaccination or testing~~ the facility where the vaccination or testing is being provided, and would extend out 20 metres from the site itself (i.e., 20 metres out from the building, or, in the case of a pop-up tent in a parking lot, 20 metres out from the tent).

How to engage the Act for schools

What do I do if there is protest activity at a school?

- As a school official or administrator, your role is to make sure your staff, students and school visitors (such as parents) are safe.
- Do not engage with the demonstrators.
- Call your local police and advise that there is protest activity and that their assistance is required at the school property.
- Follow existing protocols for responding to safety incidents when deemed necessary (e.g., contacting a Safe School Coordinator).

Whose role is it to enforce the Act?

- Enforcement of the Act is the job of the police.
- When police are called to assist with protests or demonstrations, it is the police's responsibility to decide if the Act is being contravened, and what kind of response is appropriate.
- Police have the discretion to determine how to respond. It is their role to make those decisions, based on the particular situation at hand.

Do I have to wait until protestors show up at a school, or should I alert police if I become aware of a planned protest?

- If you received advance notice of a planned protest or demonstration, you can alert police in advance. You do not have to wait until individuals present themselves at the school to advise police if you have concerns.
- Police will decide whether to attend proactively. They may instead request that you contact them again if you actually begin to see protestors, as not all planned protests actually materialize.

Who do we contact?

- Call your local police (municipal police force or RCMP) to advise of potential or actual demonstration activity that could be in contravention of the Act and in relation to which you need assistance.
- In the lower mainland, your local police may also engage the Transit Police, who are authorized to take enforcement action under the Act. But your first contact should be to the relevant local police force.

Prohibited Conduct within Access Zones

What kind of conduct does the Act prohibit?

- The Act prohibits four basic types of conduct within an access zone:
 1. Impeding someone from accessing or leaving a protected facility
 2. Physically interfering with or otherwise disrupting services provided at a protected facility
 3. Intimidating or attempting to intimidate someone, or otherwise doing or saying anything that could reasonably be expected to cause someone concern for their physical or mental safety
 4. Wilfully participating in a gathering that does any of the three things above.

Are people allowed to be in access zones?

- Yes. The Act does not create a blanket prohibition on people being present in an access zone. It only prohibits specific types of conduct within an access zone.
- People are allowed to engage in silent or peaceful protest or demonstrations within an access zone, as long as they are not engaged in one of the 4 types of prohibited conduct.

Does the Act only capture protest messages and actions related to COVID-19 or public health measures?

- No. The Act is focused on conduct that prevents access to or interferes with services of importance to the public, and on conduct that intimidates people who are accessing or providing those services. The message that demonstrators wish to convey is irrelevant.
- For example, parents who block access to a school in order to express displeasure about funding cuts to particular programs would be in contravention of the Act because they would be impeding access to the facility.
- Similarly, demonstrators who block buses from entering or leaving a school property, including with their vehicles, would also be in contravention of the Act because they would be impeding the ability to access or leave the facility. This would be true no matter what message the demonstrators wished to convey.

Can someone stand across the street from a school and hold up a sign?

- It depends. If the person is more than 20 metres from the property line of the school, then the person is outside the access zone and the Act does not apply to them. Other laws and regulations may, but the Act does not.
- If a person is within an access zone for a school, they may be permitted to hold a sign. It depends on whether their conduct otherwise contravenes the Act, including whether the message on the sign may be seen as intimidating, or would cause a reasonable person concern for their safety.

Does the Act prevent demonstrators from blocking a main road leading to a school?

- The Act creates access zones around schools that extend 20 metres from the property line of the school. This is approximately the width of a street. If demonstrators are located more than 20 metres from the property line of the parcel on which the school sits, the Act does not preclude their activities.
- Other tools exist under various provincial statutes and the *Criminal Code* that can be used to address situations where demonstrations block public highways and roads outside the reach of an access zone. Police should be contacted to respond to these situations.

What about protests related to labour relations or collective bargaining – are those permitted in an access zone?

- Yes. The Act exempts strikes, lockouts and picketing when carried out lawfully in accordance with the *Labour Relations Code*. The Labour Relations Board is authorized to decide how and when labour relations activities are permitted to occur.

- However, people engaging in lawful job action are still subject to other limits on their conduct. For example, picketers cannot assault or harass people. Conduct on picket lines is regulated by the police, who will be aware of locations where lawful job action has been authorized to take place.

Does the Act prohibit people from handing out “notices of liability” to school personnel?

- It will depend on how such a notice is delivered.
- If a person peacefully attends at a school, follows school protocols, and delivers such a notice without impeding access to the school, interrupting the school’s activities or intimidating someone / causing reasonable concern for safety, then they will likely not have done anything that contravenes the Act.
- If a person storms angrily into a school office, or shouts intimidating or threatening messages at school personnel, or blocks access in the course of attempting to deliver such a notice, they may well be in contravention of the Act.

Who decides whether someone is engaging in intimidation or other behaviour that causes a concern for safety?

- It is up to the police to decide if someone’s behaviour falls within the scope of conduct that is prohibited under the Act.
- In terms of causing concern for safety, the Act is based on whether the behaviour would cause a “reasonable person” concern. It is not an assessment based on the particular individual who is involved.
- For example, if demonstrators engage with students or staff on school property between 7 a.m. and 6 p.m. where the demonstrators use abusive language or behaviour, shout or gesture aggressively, follow individuals in an intimidating manner or even use horns and loudspeakers designed to intimidate, they may well be in contravention of the Act even if the specific students or staff involved are not themselves intimidated.

Availability of Other Tools

Does the Act replace the other tools that existed previously?

- No. The Act does not replace or eliminate the tools that existed previously for addressing poor or unwelcome behaviour.
- For example, school officials continue to be able to rely on s. 177 of the *School Act* if they so choose. People can still rely on the provision of the *Trespass Act*, and the Criminal Code continues to apply.
- The Act simply adds another set of tools that can be used to address the kinds of disruptive behaviour that has been witnessed at schools and other locations in the recent past.
- It also sets expectations for what constitutes reasonable behaviour around facilities that provide services of importance to the public.