

Mental or physical disabilities and discrimination

INFORMATION SHEET

ADR2013

The *Alberta Human Rights Act* prohibits discrimination based on physical and mental disabilities.

What is a disability?

Physical disability is defined in the Act as any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, service dog, or wheelchair or other remedial appliance or device.

Mental disability is defined in the Act as any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder.

In Alberta, employers, landlords, tenants and service providers are expected to make reasonable efforts to accommodate individuals with disabilities unless it would cause undue hardship.

It may be possible to make adjustments to a building to accommodate people with disabilities. On the job, workloads may be rearranged so that duties that cannot be performed by an employee with a disability are handled by another worker.

Examples: A ramp may be built to a building entrance to make it accessible to wheelchairs.

An employee in a wheelchair may find filing impossible. However, another employee could do the filing, and the worker with the disability could assume responsibility for a larger volume of work on the computer.

An employee suffering from a mental illness might require altered job responsibilities, on a partial or permanent basis.

For more information about accommodating people with disabilities, see the Commission information sheet *Employment: Duty to accommodate* and interpretive bulletin *Duty to accommodate*.

Health and safety

Employers are not expected to hire or continue to employ anyone whose disability notably increases the probability of health or safety hazards to themselves, other employees and/or the public.

For example, someone subject to epileptic seizures that are not fully controlled with medication could not be expected to safely perform a job working on a scaffold or driving a truck. Someone with a serious mental impairment may not be permitted to be responsible for children in a day care setting.

It is up to the employer to demonstrate that the individual's disability would threaten the safety of that employee or others at the worksite.

Hiring a person with a disability

In job applications, interviews or ads, employers are not allowed to ask about an applicant's present or past physical or mental conditions, diseases, medications, treatments, workers' compensation claims or sick leave.

However, if a job requires physical dexterity or the capacity to handle stress, for example, these requirements should be clearly stated in the job's description or employment advertisement. If a potential employee has the experience and skills for the job, there should be no "special tests" to see if he or she has the capacity to do the job. However, an employer may ask an applicant if he or she can safely complete the duties as outlined in the job description.

Any test for dexterity, medical exams for physical ability or stress-handling tests must be job-related.

Applicants should be advised that, once hired, passing such tests or exams would be required.

Contact the Alberta Human Rights Commission for advice regarding physical or mental disabilities or for information on other agencies that may be able to assist, such as the Premier's Council on the Status of Persons with Disabilities. For more information, see the Commission information sheet *Pre-employment inquiries*. 

Contact us

The Alberta Human Rights Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

For our business office and mailing addresses, please see the Contact Us page of our website (www.albertahumanrights.ab.ca), or phone or email us.

Hours of operation are 8:15 a.m. to 4:30 p.m.

Northern Regional Office (Edmonton)
780-427-7661 Confidential Inquiry Line
780-427-6013 Fax

Southern Regional Office (Calgary)
403-297-6571 Confidential Inquiry Line
403-297-6567 Fax

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number.

For province-wide free access from a cellular phone, enter *310 (for Rogers Wireless) or #310 (for Telus and Bell), followed by the area code and phone number. Public and government callers can phone without paying long distance or airtime charges.

TTY service for persons who are deaf or hard of hearing

780-427-1597 Edmonton
403-297-5639 Calgary
1-800-232-7215 Toll-free within Alberta

Email humanrights@gov.ab.ca

Website www.albertahumanrights.ab.ca

Please note: A complaint must be made to the Alberta Human Rights Commission within one year after the alleged incident of discrimination. The one-year period starts the day after the date on which the incident occurred. For help calculating the one-year period, contact the Commission.

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