

Duty to accommodate at work

INFORMATION SHEET

The *Alberta Human Rights Act* (the *Act*) says employers have a duty to accommodate an employee or a job candidate because of a protected ground to the point of undue hardship. This means changing rules, standards, policies, workplace culture, and physical environments to eliminate or reduce the negative impact the person faces because of a protected ground.

An employer's duty to accommodate employees or job candidates begins when first advertising a job and ends when the employee requesting accommodation leaves the job.

The accommodation process

Both the employer and the person requesting accommodation have rights and responsibilities in the accommodation process.

The person requesting the accommodation must:

- **inform their employer** about their need for accommodation
- **provide supporting information.** This includes providing enough information or documentation for the employer to understand what type of accommodation they need. For example, if a person requests accommodation based on a physical or mental disability, they often need to provide documentation from a medical professional explaining their functional limitations and restrictions, and how long the accommodation is needed.
- **cooperate with the employer** and participate in accommodation efforts
- **consider any reasonable accommodation options** proposed

If an employee makes an accommodation request, the employer has a duty to take steps to accommodate the employee to the point of undue hardship. These steps may include:

- **requesting information** about accommodation needs, such as medical documentation
- **being flexible and creative** in searching for accommodation that meets the needs of the person requesting accommodation
- **engaging and communicating** with the person requesting accommodation

Employers should handle and assess requests for accommodation individually and confidentially, and consult with the person making the request.

Examples of accommodation

Accommodation at work often involves the protected grounds of physical or mental disability. It may also involve other protected grounds, including religious beliefs, gender (including pregnancy), gender identity, gender expression, family status, and marital status.

Examples of accommodation at work include:

- purchasing or modifying tools, equipment, or aids
- altering the premises to make them accessible
- changing work duties or responsibilities
- offering flexible work schedules
- giving time off for extended illness
- offering time off to attend rehabilitation programs

- using temporary employees to fill vacancies
- adjusting policies (for example, relaxing the requirement to wear a uniform)
- giving space and time for employees to observe religious practices at set times during the work day
- providing a private area for breastfeeding/chestfeeding at work

Undue hardship

An employer has a duty to take steps to accommodate a person's request for accommodation to the point of undue hardship. However, an employer may have to experience some hardship in providing accommodation. To be an undue hardship, it must be "substantial in nature." For example, this could be an intolerable financial cost or serious disruption to business. What is undue hardship for one employer may not be for another.

Bona fide occupational requirements (BFOR)

Sometimes, an employer may not have to accommodate a person's request if the discriminatory rule or condition of work is reasonable and justifiable in the circumstance. This may be a bona fide occupational requirement (BFOR) – a standard or rule that is necessary for carrying out the requirements of a particular position within a workplace. For a standard to be a BFOR, an employer must establish that any accommodation or changes to that standard or rule would create an undue hardship.

For more information

Visit **albertahumanrights.ab.ca** for more information about the duty to accommodate and to read the following resources:

- *Duty to Accommodate*
- *Defences to Human Rights Complaints*
- *Obtaining and responding to medical information in the workplace*
- *Human rights, pregnancy, and parental rights and responsibilities*
- *Requesting accommodation in the workplace guide and tool*

Contact us

Website: albertahumanrights.ab.ca

Confidential inquiry line: 780-427-7661

Fax: 780-427-6013

Toll-free within Alberta: 310-0000 and then enter the area code and phone number

Video Relay Service (VRS): For Albertans who are deaf, hard of hearing, or speech-impaired, you can access our services via your own interpreter or via Canada VRS (srvcanadavrs.ca), which provides an interpreter.

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Upon request, the Commission will make this publication available in accessible formats for people with disabilities who do not read conventional print.

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.