

Practical Approaches For Workplace Accommodation Requests



Accommodation under human rights law is a fundamental responsibility for Canadian employers. As the types of requests continue to evolve, it is important to understand both the legal requirements and the practical steps needed to respond effectively.

This article offers guidance for employers on fulfilling accommodation obligations and mitigating associated risks in the workplace.

1. **Legal Framework.** Employers are prohibited from discriminating on protected grounds, such as disability, family status, race, religion and others. Human rights legislation across Canadian jurisdictions requires accommodation to the point of undue hardship. This often involves modifying workplace rules or practices to support individual employee needs while maintaining operational viability.
2. **Triggering Events.** The duty to accommodate arises when an employer becomes aware, or ought reasonably to be aware, that an employee may require support. A formal request is not always necessary; observable signs, such as physical discomfort, declining performance or recurring absences, can also trigger the obligation. Employers must assess the situation and, where appropriate, initiate the accommodation process.
3. **Employer Duties.** Employers must demonstrate a good-faith effort when assessing accommodation. This includes both procedural and substantive responsibilities: engaging with the employee, gathering relevant information and identifying workable adjustments. Human rights tribunals consider whether employers took appropriate steps before deciding if the proposed accommodation is substantiated.
4. **Undue Hardship.** While accommodation is mandatory, it is not unlimited in scope. Employers can refuse accommodation if it results in undue hardship, in some cases evaluated based on cost, health and safety, and availability of external funding. Subjective factors such as inconvenience or employer preference are not legally valid reasons to deny a request.
5. **Collaborative Process.** Accommodation is a collaborative process, and the employee must actively participate. This includes providing the documents and information necessary to substantiate the need for accommodation and to allow the employer to assess the appropriate accommodation in the circumstances.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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