

Religion in the Workplace: 10 Things to Put in Your Religious Accommodations Policy



We must admit that as a society, we have failed to take on Islamophobia, and we have not treated it with the urgency that is required. . . . Canada properly voiced their outrage, their sorrow and their support for our Muslim neighbours. But there is more to be done – and this is the time to do it. Taking lasting action is the best way to remember and honour the victims.”

– Ontario Human Rights Commission (OHRC) in response to Québec City mosque bombing

Islamophobia in Canada isn't a new phenomenon. But the Québec City mosque bombing may herald a new and uglier phase. Employers across the country would do well to heed the OHRC call to action and ensure that religious hatred and bigotry—whether directed at Muslims, Jews or other groups—doesn't poison the workplace.

Mere tolerance of religious differences in the workplace isn't enough. That's not a statement of morals but of law. Under human rights laws, employers must take affirmative steps to accommodate religious beliefs and differences so that employees (and job applicants) don't have to choose between their religion and their employment duties. The starting point is to implement a clear and specific policies and procedures for religious accommodations.

10 Key Elements

The regulations don't specifically mention accommodations policies let alone suggest what they should contain. But based on government guidance, court cases and best practices, we can identify 10 elements that such policies should include.

1. Policy Statement

Establish the context with a statement of policy that makes 3 basic points about your organization:

- Its belief in individual freedom of religion as a core value;
- Its commitment to provide a workplace where all individuals are treated with tolerance or respect regardless of faith; and

- Its policy of making reasonable accommodations for sincerely-held religious beliefs and practices to the point of undue hardship.

(Model Policy, Sec. 1)

2. Definition of Religion

Next, explain some of the key terms contained in the policy, starting with “religion,” which should be defined broadly as including not just traditional and organized religions but broader spiritual beliefs and practices not associated with a particular church, provided that those beliefs and practices:

- Guide personal conduct;
- Are an integral part of personal identity; and
- Are sincerely held.

(Model Policy, Sec. 3(B))

3. Definition of Creed

It’s also advisable to extend your policy beyond religion to “creed,” i.e., personal beliefs or practices that meet the above 3 criteria for “religion” but which are either held by a person not associated with the religion or non-religious in nature or . Explanation: Covering creed is mandatory if you’re in any of the 9 jurisdictions in which creed is a ground protected from discrimination—Ontario, Nova Scotia, Manitoba, Saskatchewan, Newfoundland, Prince Edward Island and each of the 3 territories. Covering creed is also advisable in jurisdictions where creed is not specifically listed as a protected ground since the concept of religion may be interpreted broad enough to include creed. (Model Policy, Sec. 3(A))

4. Definition of Accommodations

Explain what accommodations are, i.e., reasonable exemptions or modifications of work schedules, policies and procedures to make room for the sincerely-held religious beliefs of employees or job applicants. List examples such as:

- Time for prayer during a work day;
- Leaves or absences for religious observances;
- Revisions or exemptions to dress codes and personal appearance policies for religious garb, e.g., exempting an employee of the Sikh faith from a no-beards policy;
- The display of religious symbols;
- Accommodation of religion- or creed-based dietary restrictions or fasting.

(Model Policy, Sec. 3(D))

5. Definition of Undue Hardship

Be clear that the duty to accommodate doesn’t require accommodations that would impose undue hardship. Explain that undue hardship is based on cost, feasibility, health and safety and other considerations. List examples, e.g., accommodations that would cause substantial disruption or endanger health and safety. (Model Policy, Sec. 3(E))

6. Individual Responsibilities

List the responsibilities of individuals responsible for implementing the policy, including at a minimum, management, supervisors and employees themselves. (Model

Policy, Sec. 4)

7. Accommodations Procedures

Lay down procedures, rules and deadlines for handling religious accommodations requests, including:

- Submission of accommodation requests and supporting materials by employees;
- Responding to and notifying employees of results of requests;
- Evaluating requests; and
- Appealing denials.

(Model Policy, Sec. 5)

8. Criteria for Evaluating Requested Accommodations

Indicate that requests for accommodation will be evaluated on a case-by-case basis in accordance with the requestor's individual needs and unique circumstances involved. Be sure to list the criteria used—and not used—to evaluate requests. The latter should include:

- Personal opinions or perceptions of organization employees about the religious belief or practice;
- How granting the accommodation may harm morale, e.g., "if I let this employee not work on Sabbath, other employees will demand weekends off";
- Unreasonable customer or third party preferences, e.g., an employee's preference that his co-workers be Christian.

(Model Policy, Sec. 5(E))

9. Confidentiality

Although you can't guarantee privacy of accommodations requests, you can promise keep request records in a secure location, separate from employee or job applicant personnel files and confidential to the extent required by personal privacy laws.

(Model Policy, Sec. 6)

10. Non-Retaliation

Assure employees that no person will suffer adverse employment treatment or consequences in retaliation for requesting or receiving religious accommodations under your policy. (Model Policy, Sec. 7)