



A Guide for Employers:

Duty to Accommodate

Accommodating Employees in the Workplace

Alberta

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PENINSULA

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Do you have the proper processes and infrastructure in place to adequately accommodate all members of your workforce? This guide discusses your employer obligations relating to accommodation in the workplace.

The Alberta Human Rights Act (AHR Act) identifies all people as equal; regardless of factors such as physical ability, mental ability, race, marital status, sexual orientation and more.

The objective with accommodation is to achieve equitable participation in the following areas protected by the AHR Act:

- Employment practices
- Employment applications and advertisements
- Residential or commercial tenancy
- Goods, services, accommodation or facilities customarily available to the public (e.g., stores, provincial government services, restaurants, etc.)

By taking the time to understand Alberta's laws, surrounding accessibility in the workplace, you can protect your business through compliance and provide a professional and supportive work environment to your employees. Continue reading to learn how to apply our HR best practices to accommodating employees in your workplace.

Understanding Duty to Accommodate

For employers, the duty to accommodate means taking the necessary steps to eradicate discrimination for their employees.

Discrimination can take the form of a rule, practice or barrier that negatively impacts a person needing accommodation on grounds protected under the Alberta Human Rights Act (AHR Act). An example of removing discrimination is equal pay. The AHR Act states that employees of any sex (male, female, transgender) that do the same or significantly similar work, must receive equal payment.

Key points employers should keep in mind when accommodating employees, include (but are not limited to):

- Adjusting workplace policies
- Revising aspects of the job
- Providing rehabilitation programs
- Reassigning employees to different jobs

Failing to provide adequate accommodations in the workplace can have repercussions for employers. If an employee feels their employer is not providing appropriate accommodation, they can file a complaint with the Human Rights and Citizenship Commission.

How far do employers have to take accommodation?

Employers in Alberta are obligated to strive for accommodation until the point of undue hardship. Undue hardship is the point at which, accommodation would cause arduous conditions for the employer. The AHR Act outlines the points of

undue hardship for a business; which include (but are not limited to) the following:

- **Intolerable financial costs:** accommodation would result in financial costs that impede productivity or efficiency for the employer.
- **Disruption of operations:** accommodation would stop the employer from performing essential aspects of the business.
- **Significant interference with the rights of other individuals or groups:** accommodating one employee would significantly interfere with the rights of others in the workplace.

Rights and responsibilities related to accommodation

When it comes to accommodation in the workplace, both the employer and the employee have rights and responsibilities to ensure accommodation, up until undue hardship, is received.

The AHR Act lists all the rights and responsibilities, relating to both employers and employees; however, the following are examples of the role both parties play in achieving accommodation in the workplace:

Employee Rights and Responsibilities

- Ensure the area of accommodation is protected under the AHR Act
- Notify the employer that they have a need for accommodation
- Provide the employer with a reasonable amount of time to respond to the request for accommodation
- When accommodation is provided, make a formal agreement with the employer or service provider

Employer Rights and Responsibilities

- Verify that the request for accommodation falls under grounds protected by the AHR Act
- Once the employer receives a request for accommodation, they have a duty to accommodate
- Respect the dignity of the individual or group asking for accommodation
- Discuss different options of accommodation with the individual seeking accommodation

Respecting an employee's right to privacy

An employee requesting accommodation, has the right to privacy; however, the employer has the right to information that helps to determine the extent of accommodation needed for the employee.

To ensure employers have the necessary information for accommodation, while respecting the employee's privacy, employers can ask for the following information:

- The projected length of disability and absence (prognosis for recovery);
- The employee's condition to return to work;
- The employee's ability to execute certain aspects of the pre-injury job and their ability to perform modified work; and
- The estimated duration of physical or mental restriction or limitations, following the employee returning to work.

Employer FAQs

What are employers asking about duty to accommodate?

1. Does an employee have the right to accommodation for religious belief's?

Religious beliefs are protected under the AHR Act and deserve accommodation up until the point of undue hardship. Examples of accommodation relating to religious beliefs are dress-code, religious leave and work schedule.

2. Can I terminate an employee planning to go on maternity leave?

An employee cannot be terminated strictly because she is pregnant. If pregnancy is a factor in the employer's decision to terminate an employee, they may be in violation of the AHR Act.

3. If an employee needs access to a stair lift, after suffering an injury from a car accident, do I have a duty to accommodate them?

Employers must understand they have a responsibility to accommodate up until the point of undue hardship. Also, it is important to consider whether implementing a stairlift is costlier than hiring and training a new employee.



Learn More

If you have questions about best practices for accommodations in the workplace, our HR experts can answer your questions. Learn more about your employer obligations today, by calling:

1 (833) 247-3652

We've got you covered.

Schedule A Callback



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