

# Employment: Duty to accommodate



Alberta Human Rights  
and Citizenship Commission

## INFORMATION SHEET

### Duty to accommodate

---

The Supreme Court of Canada has ruled that an employer has a legal duty to take **reasonable** steps, in policies or conditions of work, to accommodate an employee's individual needs. This duty applies to all grounds of discrimination covered under the *Human Rights, Citizenship and Multiculturalism Act* (race, religious belief, age, mental disability, physical disability, colour, gender, marital status, family status, source of income, ancestry, place of origin or sexual orientation).

For example, a person may be unable to work on a particular day because it conflicts with his or her religious beliefs. In such cases, the employer must try to resolve the conflict in a way that is agreeable to both parties.

However, this legal duty does not apply if the only way to resolve the problem will cause the employer undue hardship.

### Undue hardship

---

The Supreme Court of Canada has ruled that the employer's hardship must be "substantial in nature." For example, a physically disabled employee, as part of his or her job duties, may be required to carry boxes up a flight of stairs. If the business has no elevator, it may be deemed an undue hardship to expect the employer to install an elevator to accommodate the employee. However, it may be possible

to have another employee do that task. In exchange, the disabled person could assume one or more of that employee's regular tasks.

Accommodation which is reasonable in one case may not be reasonable in another. Every case should be handled and assessed in an individual manner and in consultation with employees.

### Union agreements

---

Unions or union contracts cannot prohibit an accommodation that is considered reasonable, even if that accommodation contravenes a collective bargaining agreement.

For example, a reasonable accommodation for an employee who cannot work a certain day for religious reasons may be to have that employee work overtime on another day at regular pay. Even though a collective agreement may prohibit regular pay for overtime work, the employer may not be bound by the agreement in this case.

An employee must consider an accommodation that is deemed reasonable. Accommodation requires give and take by both the employer and the employee.


## Exceptions

---

In some cases, an employer may not be required to accommodate employees if the discriminatory rule or condition of work can be shown to be **reasonable** and **justifiable** in the circumstances. In other cases, there may be *bona fide occupational requirements* (BFOR) for employment in certain positions. Employers, then, would not have to accommodate employees who do not meet those requirements. (See the information sheet *Stereotyping, prejudice and discrimination*.)

## For more information

---

The interpretive bulletin *Duty to Accommodate* offers more detailed information about the duty to accommodate and related court decisions. You can find the interpretive bulletin on the Commission's Web site or order a printed copy from the Commission. See *Contact the Commission*. 

## Contact the Commission

For more information, please contact the **Alberta Human Rights and Citizenship Commission**. We are 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.

### Northern Regional Office

800 Standard Life Centre  
10405 Jasper Avenue  
Edmonton, Alberta T5J 4R7  
**(780) 427-7661 Confidential Inquiry Line**  
(780) 427-6013 Fax

### Southern Regional Office

Suite 310, 525 – 11 Avenue SW  
Calgary, Alberta T2R 0C9  
**(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-AT&T) or #310 (for Telus).

### 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

**E-mail** [humanrights@gov.ab.ca](mailto:humanrights@gov.ab.ca)

**Web site** [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

*Please note: A complaint must be made to the Alberta Human Rights and Citizenship Commission within one year after the alleged incident.*

The *Human Rights, Citizenship and Multiculturalism Education Fund* has provided funding for this publication.