



# Developing a workplace accommodation policy

A template for federally regulated employers

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Cat. No.: HR4-109/2024E-PDF  
ISBN: 978-0-660-71204-8

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# Introduction

## Who is this template for?

This template is for federally regulated employers looking to create their own workplace accommodation policy. A good accommodation policy is key to building an inclusive workplace that respects the unique needs, perspectives and potential of all their team members.

An accommodation policy is a document that managers and workers can turn to for the right set of steps to follow, and a consistent approach to take when dealing with specific, case-by-case accommodation processes.

This template will help federally regulated employers develop an accommodation policy that is consistent with the requirements of the Canadian Human Rights Act (CHRA) and the Accessible Canada Act (ACA), while also being adaptable to each workplace. Developing a policy based on this template does not limit the Canadian Human Rights Commission's discretion in accepting a workplace accommodation complaint or referring such a complaint to the Canadian Human Rights Tribunal for further review.

Good accessible design ultimately improves the work environment for everyone. The worker with a broken leg or workers who are carrying something in their arms will also benefit from automatic door openers and elevators.

Adopting a workplace accommodation policy helps foster an environment of respect for human rights and lets people in the organization understand their rights and responsibilities. Policies can protect an employer from discrimination complaints and help create the kind of organization that attracts and retains top talent. More than that, it is simply the right thing to do.

## Understanding the legislation

There are some human rights laws to know about when it comes to workplace accommodation.

### Canadian Human Rights Act

The Canadian Human Rights Act (CHRA) is Canada's federal anti-discrimination law. Its purpose is to ensure that everyone has an equal opportunity to live the lives they are able and wish to have, free from discrimination. It applies to all federally regulated employers, such as federal departments and agencies, banks, radio and television broadcasting, and air or rail transportation.

A big part of preventing workplace discrimination is ensuring that individuals who are otherwise able to work do not experience discrimination by being excluded from their work because of things like their disability, their religion, their being a parent, or a variety of other reasons listed in the CHRA. These are called grounds of discrimination, and are listed in the CHRA:

- Race
- National or ethnic origin
- Colour
- Religion
- Age
- Sex (including pregnancy)
- Sexual orientation
- Gender identity or expression
- Marital status
- Family status
- Genetic characteristics
- Disability
- Conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

### **Accessible Canada Act**

The Accessible Canada Act (ACA) is a federal law that aims to create a barrier-free Canada. It requires federally regulated organizations to proactively find, remove and prevent barriers facing people with disabilities. Barriers can be in physical places, communication, technologies, policies and practices, and attitudes. The ACA requires organizations to consult people with disabilities and publish accessibility plans, feedback processes and progress reports. The Accessible Canada Regulations give details about these requirements.

The ACA does not replace the duty to accommodate under the CHRA. Organizations must still continue to comply with the CHRA by accommodating the unique needs of individuals while also meeting the requirements of the ACA.

### **Have our companion guide handy**

A helpful tip is to have our companion guide, "[Workplace Accommodation: A guide for federally regulated employers](#)," close by as a handy resource while using this Template.

# How to use this template

Before diving into developing a policy using the template, gather some key information first. Follow these steps to find out the kind of information needed to incorporate into the template as it is being developed. Placeholders are found throughout the template to show where to insert specific information relevant to the organization.

**STEP 1** – Determine who in the organization will be accountable for the policy’s effectiveness and responsible for making decisions related to the policy. All of the people designated to make decisions related to this policy should have training and be familiar with human rights principles and concepts related to workplace accommodation. Training should include sessions/modules on workplace discrimination, diversity and inclusion, ableism, and accessibility. Some workplaces may require training tailored to the specific sector or work environment. There are three roles that should be identified in the accommodation policy:

- a. **[Name and/or Position A]** This role should be given to a dedicated human resources employee or another individual who is generally responsible for the hiring process.
- b. **[Name and/or Position B]** This role should be given to a senior manager who is familiar with the workings of the organization.
- c. **[Name and/or Position C]** This role should be given to a senior manager who is familiar with the workings of the organization. It should not be the same individual identified for roles A or B.

**STEP 2** – Replace all **[Name of Organization]** placeholders with the name of the organization.

**STEP 3** – Replace all **[Name and/or Position]** placeholders with the name and/or position title of each designated person for each role throughout the policy template.

**STEP 4** – It is important to have clear procedures in place to guide supervisors and workers through the steps that will be taken if a worker requires an accommodation process. This template includes guidelines for how to approach an individualized accommodation process. The sample process included in this policy template can be modified to fit the needs and requirements of the organization.

**STEP 5** – Read the entire template and add the relevant information into the remaining placeholders so that they fit the organization. Delete any placeholders that are not relevant to the organization.

**STEP 6** – Publish the policy in an accessible format on the organization’s website and intranet site, as well as in any worker handbooks and material shared with external contractors.

**STEP 7** – Review the policy on an annual basis, or as required, to see what, if any, changes or updates need to be made. Ensure that the policy remains an evolving document that is well tailored to the organization.

# Template

## [Name of Organization] Workplace Accommodation Policy and Procedures

### Statement of Commitment

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The policy should contain a statement of the organization’s commitment to creating and maintaining respect for human rights and fostering diversity, equality and inclusion. This is separate from a purpose or policy objectives section. This statement should also note the employer’s obligation under the Accessible Canada Act to work toward universal accessibility.

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**[Name of Organization]** is committed to building an inclusive workplace and an environment where all individuals are treated with respect and dignity, can contribute fully and have equal opportunities.

**[Name of Organization]** is dedicated to creating a workplace culture that promotes equality, diversity, inclusion, transparency, and respect for human rights.

**[Name of Organization]** will respect the unique needs, perspectives and potential of all our team members/workers. **[Name of Organization]** recognizes its legal obligations under the Canadian Human Rights Act (CHRA) and Accessible Canada Act (ACA), and achieving universal accessibility is the underlying objective that guides our approach to inclusion. However, workplace accommodation remains a vital component of an inclusive workplace.

**[Name of Organization]** recognizes that workplace discrimination has serious consequences on workers and our organization. It can impact physical and mental health, workplace morale, productivity, and can create systemic barriers to equality in employment.

### Policy Statement

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The policy statement should set out the objectives and make everyone aware that accommodating needs related to any of the 13 prohibited grounds is the law. The section should also clearly indicate that discrimination is prohibited by the Canadian Human Rights Act and make reference to the employer’s obligations under other human rights legislation such as the Accessible Canada Act and the Employment Equity Act.

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This policy is intended to make the work environment inclusive, safe and non-discriminatory by setting out responsibilities, expectations and procedures that provide the framework for establishing a successful workplace accommodation process.

**[Name of Organization]** is dedicated to ensuring that people who are otherwise able to work are not discriminated against by being excluded from doing so when working conditions can be adjusted without causing undue hardship to the employer. Failing to provide necessary workplace accommodation to workers is a form of discrimination.

The Canadian Human Rights Act states that every person has the right to be free from discrimination based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability (mental or physical disabilities, including substance use disorders) or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

**[Name of Organization]** will act in a manner consistent with its obligations under the Canadian Human Rights Act, the Accessible Canada Act and the Employment Equity Act **[insert; “and (title of provincial or territorial human rights legislation)” if applicable]**.

## Application

This policy applies to all current and prospective workers of **[Name of Organization]**, including full and part-time, casual, contract, permanent, and temporary employees, as well as student interns, volunteers, job applicants and candidates. This policy also applies to workers on approved leave including short and long-term disability leave.

This policy applies to all aspects of employment including, but not limited to recruitment, selection, training, promotion, transfers, work arrangements, compensation and benefits, and termination of employment.

## Key Concepts and Definitions

**Ableism** – discrimination and social prejudice against people with disabilities. Ableism comes in all forms, from overt prejudice to more subtle microaggressions.

**Accessibility** – designing places, programs, services and products to be inclusive and usable by everyone from the start. This means preventing problems by addressing barriers early on so that people with disabilities are not excluded.

**Accommodation** – taking steps to adjust rules, policies, practices or physical spaces that have a negative impact on individuals—or groups of individuals—based on prohibited grounds of discrimination in the Canadian Human Rights Act.

**Barrier-free Workplace**– is one in which all workers have the opportunity to contribute and participate to their full potential.

**Bona Fide Occupational Requirement (BFOR)** – is a defence to discrimination within the meaning of paragraph 15(1)(a) and subsection 15(2) of the CHRA where a rule or standard is integral to the functions of a workplace. For a standard or rule to be considered a BFOR, an employer must demonstrate that:

- i) the standard or rule is rationally connected to the performance of the job,
- ii) it imposed the standard with an honest and good faith belief in its necessity, and
- iii) any changes to the standard to accommodate workers who do not meet the standard would create undue hardship, considering health, safety, and cost.



**Disability** — the CHRA defines “disability” as “any previous or existing mental or physical disability and includes disfigurement and previous or existing dependence on alcohol or a drug.” Since the CHRA was created, the courts have interpreted “disability” broadly to be more inclusive of disability in its various forms. Disability results from the interaction between an individual living with any type of physical, psychosocial, intellectual, cognitive, learning, communication, sensory, medical, or other functional difference – whether apparent or non-apparent, and whether chronic or fluctuating – and an environment that is inaccessible (i.e., that has barriers).

**Discrimination** – any action, behaviour, decision or omission that results in the unfair or negative treatment of a person or group related to one, or any combination of prohibited grounds, outlined in the CHRA. Discrimination may be intentional or unintentional. Even rules, practices and procedures that appear to be neutral can be discriminatory if they have the effect of disadvantaging certain groups of people.

**Duty to accommodate** – the legal obligation to adjust the working conditions for an individual (or group) to ensure that those individuals who are otherwise fit to work are not unfairly excluded, and to do so in a timely manner. The duty to accommodate is engaged when working conditions, such as rules, standards, or aspects of the physical environment have a negative impact on a worker based on a prohibited ground of discrimination and the worker requires accommodation to do their work. The employer must arrange the worker’s duties or workplace to enable the worker to do their work if it can do so without undue hardship. The duty to accommodate ends if the required accommodation would cause the employer undue hardship based on health, safety, or cost. Under the CHRA, employers have a duty to accommodate a worker’s disability related needs regardless of how the disability arose.

**Duty to inquire** – when an employer is aware, or ought to be aware, that there may be something affecting a worker’s job performance, the employer has a legal obligation (duty) to initiate a discussion (inquire) about the worker’s possible need for accommodation. The duty to inquire most often arises in situations involving disability, particularly mental health disabilities or substance use disorders,<sup>1</sup> but could arise based on any ground.

**Inclusive workplace** – is one in which all workers are treated with dignity and have the opportunity to contribute and participate in the workplace in a barrier free environment to the full extent of their abilities, where the skills, capabilities and potential contributions of each individual is respected.

**Intersectionality** – a concept coined by Kimberlé Crenshaw<sup>2</sup> that recognizes that different kinds of discrimination reinforce and influence each other. The different social categories a person belongs to, such as their religion, race, class, gender, physical or mental ability, or sexual orientation, can shape the nature of the discrimination they face in their lives. The combined effects of multiple grounds of discrimination can have a greater impact than discrimination based on a single ground.

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<sup>1</sup> Substance use disorder will be the terminology used in this template. The CHRA uses the term dependence on alcohol or a substance, which is an older term. For the purposes of this publication, these terms have the same meaning.

<sup>2</sup> Crenshaw, Kimberlé. “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” online at: <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>.

**Undue Hardship** – occurs when required accommodation measures would be prohibitively expensive, or create undue risks to health or safety. This is where the duty to accommodate ends. There is no precise legal definition of undue hardship or standard formula for determining it. Each situation is unique and must be assessed individually. Some degree of hardship is reasonable; however, an employer will have reached undue hardship when reasonable measures of accommodation have been exhausted and only unreasonable or impracticable options remain. A claim of undue hardship must be supported with facts and a detailed analysis of options.

**Worker** – includes all full-time, part-time, casual, contract, permanent and temporary employees, including service employees in military and other public safety roles, as well as suppliers, trainees/cadets, student interns, volunteers, job applicants and candidates, and those on approved leave.

# Responsibilities and Expectations

Accommodation is a shared responsibility between **[Name of Organization]**, supervisors, and workers.

**[Name of Organization]** is responsible for:

- eliminating barriers that prevent people from accessing, or being included in, the workplace;
- minimizing the need for individual accommodation by regularly reviewing rules, policies and practices to ensure that they are not discriminatory;
- ensuring that all workers are advised of their right to be accommodated;
- dealing with requests for accommodation in a timely, confidential and sensitive manner;
- providing individual accommodation to the point of undue hardship; and
- ensuring that this policy is effectively implemented.

**Supervisors are responsible for:**

- fostering an inclusive work environment by treating all workers with respect and dignity;
- identifying and eliminating barriers that prevent people from accessing, or being included in, the workplace;
- dealing with requests for accommodation in a timely, confidential and sensitive manner;
- informing individuals requiring accommodation what information they need to provide to be accommodated;
- contributing to the search for appropriate accommodation options based on the information provided about the individual's accommodation need(s);
- involving individuals requiring accommodation in the search for accommodation; and
- initiating a discussion about accommodation when they are aware, or ought to be aware, that a worker or job applicant may have a need for accommodation, but is unable, for any reason, to articulate that need.

**Workers are responsible for:**

- making their accommodation needs known. This does not require the disclosure of the specific cause of their needs but only the effects which create the need for accommodation;
- helping to identify potential accommodation options;
- providing documentation in support of their request for accommodation, including information about any restrictions or limitations; and
- accepting an offer of accommodation that meets their needs, even if it is not their preferred accommodation option.

**Workers can expect:**

- to be treated with respect and dignity;
- to have their needs accommodated in a timely manner and up to the point of undue hardship; and
- to be informed of the reasons if their accommodation request is denied.

## Procedures for Accommodation

**Job Applicants**

All job advertisements will note that applicants may request accommodation to facilitate participation in the application process. Information on how to submit a request will also be included.

When contacted for an interview, job applicants will be advised/reminded that **[Name of Organization]** has an accommodation policy and asked whether they require accommodation to participate in the hiring process.

**[Name and/or Position A]** will evaluate the job applicant's request for accommodation and may request more information from the applicant to facilitate the accommodation. Applicants are not required to provide information about a disability or medical condition, only the limitations for which they require accommodation.

If a request for accommodation is denied, the reasons why will be clearly communicated to the job applicant.

**Workers**

A worker may request accommodation by notifying their supervisor. Alternatively, accommodation needs may be identified collaboratively between the supervisor and worker in response to concerns raised by the supervisor.

The supervisor will document the request, including the worker's name, position and date of the request, any details provided by the worker and any accommodation options suggested by the employer or worker.

The supervisor may request supporting documentation from the worker in order to identify accommodation needs and options (e.g. details of restrictions or limitations). A request for additional medical information should use the least intrusive means possible that respects the worker's privacy rights and dignity.

The supervisor will consider accommodation options including, but not limited to: workstation adjustments; reassignment of job tasks; changes to scheduling or hours of work; leaves of absence; and temporary or permanent reassignment.

The supervisor will discuss available accommodation options with the worker. The accommodation preferences of the worker will be taken into account. However, where an agreement on the proposed accommodation measures cannot be reached, the supervisor may recommend and/or implement an option that meets the worker's accommodation needs and the employer's operational needs. The supervisor will clearly communicate the reasons for their recommendation and/or decision to the worker.

The supervisor will review the accommodation measures with the worker on a regular basis to confirm they continue to be necessary and effective.

If there is evidence that the available accommodation options may cause undue hardship, the supervisor will refer the matter to **[Name and/or Position B]** for decision.

**[Name and/or Position B]** will ensure that all accommodation options short of undue hardship have been considered prior to refusing accommodation. If a request for accommodation is denied, **[Name and/or Position B]** will provide clear reasons for the denial to the worker. The decision will be recorded in writing and written reasons provided to the worker in an accessible format.

## Appeals

If a worker has been denied accommodation, is not satisfied with the accommodation offered, or believes that their request has not been handled in accordance with this policy, they may request a review by **[Name and/or Position C]**. **[Name and/or Position C]** will review the worker's concerns and the steps taken in the accommodation process, and provide the findings of their review to the worker, including supporting reasons.

If a dispute cannot be resolved, a worker may also file a discrimination complaint with the Canadian Human Rights Commission within one year of the last alleged act of discriminatory treatment **[insert "and (title of other grievance mechanism)" if applicable]**.

## Privacy and Confidentiality

All records associated with accommodation requests will be maintained in a secure location, separate from the worker's other personnel files and will only be shared with persons who need the information.

**[Name of Organization]** and all individuals involved in the accommodation process will comply with the requirements of the **[insert "(title of applicable privacy legislation)"]** to protect personal information.

## Review

**[Name and/or Position A]** will review this policy and related procedures on an annual basis, or as required, and will make adjustments as necessary to ensure that it continues to meet the needs of all workers.

## Enquiries

Enquiries about this policy and related procedures can be made to **[Name and/or Position B]**.

**Date:** [Month, day, year]