

The Duty to Accommodate: Key Takeaways

Key Definitions

Disability Definition: There are several definitions of what constitutes a disability. However, the Accessible Canada Act defines disability as “any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairments – or a **functional limitation** – whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person’s full and equal participation in society.”

The **duty to accommodate** in the workplace context ensures that employees with disabilities are supported to perform their work duties; it is the legal obligation that employers have to ensure that any barriers present in the physical or remote workspace are addressed unless it causes **undue hardship** to the employer.

Undue hardship means that an employer may not be in a position to accommodate an employee if there are excessive costs associated with the accommodation or that it may lead to health and safety risks to the employee or others.



Key Principles

- The duty to accommodate requires an **individualized approach and assessment**, as every individual has unique needs related to their specific disability and/or functional limitations.
- The duty to accommodate is a **shared responsibility** between the employee, employer, healthcare provider, and union (if applicable)
- Accommodations are based on needs and not employee preferences|
- The goal of an accommodation, in most cases, is to identify and remove barriers without impeding or compromising the essential job requirements of the position.
- In most situations, employees are only required to identify their **functional limitations** and do not need to disclose their specific medical condition to the employer.

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Roles and Responsibilities

- **Employees**

- Must engage in the accommodation process.
- Should share sufficient information related to their functional limitations and how these impact them equally participating in the workplace. A full disclosure of the medical diagnosis is usually not required for most positions.
- Advocate respectfully for reasonable adjustments.

- **Employers**

- Required to accommodate the accommodation **needs** (not preferences of the employee) unless doing so causes undue hardship (i.e. cost, health, safety).
- Must assess requests fairly, avoiding assumptions or bias.

- **Healthcare Providers**

- Should provide clear information on functional limitations and impacts, not detailed medical diagnosis.
- Collaborate to suggest workplace adjustments (e.g., telework, modified environment).

Helpful Resources and Links

- **Canadian Human Rights Commission (CHRC) – Duty to Accommodate Overview:** <https://www.chrc-ccdp.gc.ca/en/guidance/duty-accommodate>
- **Canadian Human Rights Act -** www.laws-lois.justice.gc.ca/eng/acts/h-6/
- **Pocket Guide on the Duty to Accommodate-** www.pipsc.ca/labour-relations/stewards/pocket-guides/pocket-guide-duty-to-accommodate#bfor

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