

Duty to accommodate

Your employer has a duty to accommodate you if you have a disability. Your disability can be physical or psychological.

How can I get the accommodation I need?

There are a number of steps you should take in order to make sure that your need for accommodation is dealt with properly. You should:

- Ask your employer for accommodation (you may consider obtaining a medical report or letter from your doctor to support your request)
- Explain why you need it (try to do this in writing)
- Provide information that is directly relevant to your needs, restrictions or limitations (this can include medical information, but only the information that is directly related to your request for accommodation)
- Participate in discussions about possible accommodation solutions
- Co-operate with any experts whose assistance is required
- Try different forms of accommodation even if it is not the perfect accommodation

If you are a member of a union, you should contact your union representative to discuss your employer's procedure for seeking accommodation at work.

What does my employer need to do? What do I need to do?

Your employer's duty to accommodate means that they should obtain relevant information about your disability and how that impacts your ability to do your job or alternative work.

Your employer can request that you provide supporting medical documents about your medical condition (though you do not have to provide a diagnosis) including any limitations or restrictions, prognosis and when you may be able to return to work or resume regular duties and/or your ability to perform your job duties or hours of work. These factors should be considered by the employer in assessing what accommodation options may be available.

At the same time, you are expected to cooperate in this process and provide information and respond to reasonable requests for information from your employer. Both the employer and the employee should work together to consider accommodation options depending on the nature of the disability and keeping in mind the nature of the workplace and job duties.

After you have made your accommodation request, your employer should:

- Accept the accommodation request in good faith, unless there are legitimate reasons for acting otherwise
- Obtain relevant information from you and/or your medical practitioners, with your consent
- Limit their requests for information (e.g. medical reports) to those directly related to your needs, limitations or restrictions
- Explore accommodation options in a timely manner
- Maintain confidentiality

What kinds of accommodation are appropriate?

What accommodation is appropriate will depend on your disability-related needs and the nature of the employment – to see what measures may be appropriate so you will be able to continue working in your job.

Examples of accommodation may include:

- modified hours or flexible break periods or micro-breaks
- ensuring wheelchair accessibility
- use of a stool or seated option at work
- allowing flex time for attending medical appointments / treatment

Can my employer refuse to accommodate me?

Yes. Your employer is not required to accommodate your needs beyond the point at which the accommodation would cause “**undue hardship**.” An employer may be able to show undue hardship if there are excessive financial costs or health & safety risks in putting in place the accommodation.

Your employer can also refuse to accommodate you if you cannot perform the core functions of your job. If you have a permanent injury or disability that effects your ability to do your job *at all* and/or it is expected that you will not be able to return your job at all or for the foreseeable future, then this may impact the employer's duty to accommodate and your legal options.

It is recommended that you get legal advice if you are in this situation.

Reminder: A disagreement with your employer about the type of accommodation does not necessarily amount to a refusal to accommodate.

Both employers and employees should work together to explore accommodation options and even though an option may not be *perfect*, if it is a *reasonable* option (taking into account any medical limitations and restrictions and the work conditions), then it should be considered.

What should I do if my employer refuses to accommodate me?

If you have:

- asked for accommodation
- explained your needs
- provided information
- co-operated and participated in discussion about possible accommodation solutions
- been open to different kinds of accommodations and you are still facing issues with accommodation

you may file a human rights complaint against your employer.

For more information on filing a human rights complaint, see CALC's tip sheet:

- **Ontario's Human Rights Code** (<https://communitylegalcentre.ca/tcodownloads/ohrc-tip-sheet/>).

IMPORTANT: THIS TIP SHEET IS FOR INFORMATION PURPOSES ONLY AND IS **NOT** LEGAL ADVICE.

For legal advice, call us or use our online request for help form: <https://bit.ly/calc-help>.