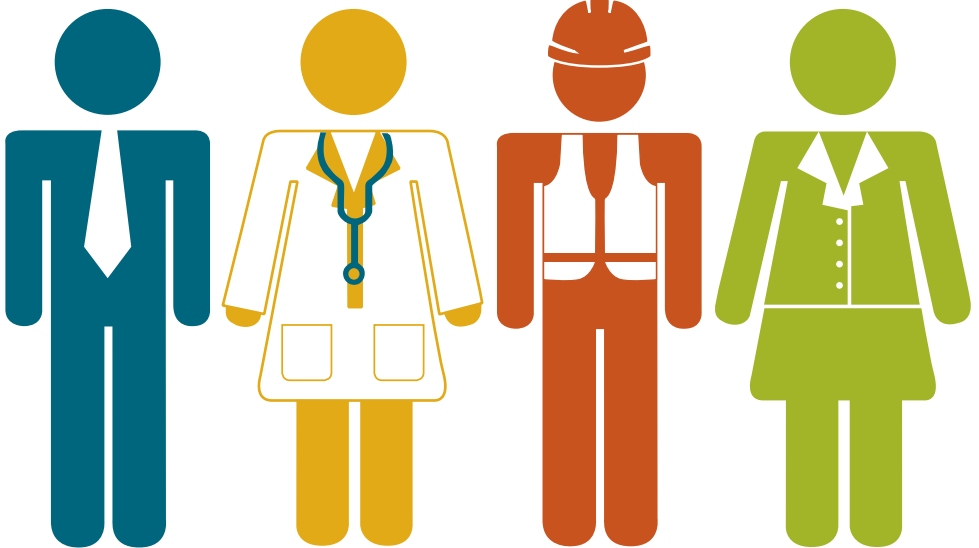




NORTHWEST TERRITORIES  
HUMAN RIGHTS  
COMMISSION

# Human Rights & Employment



We envision a Territory that is  
**diverse, fair, safe**  
and **inclusive**, where  
**everyone** is **equal**.

This guide provides general information about the NWT *Human Rights Act* as it applies to employers and employees in the Northwest Territories. It is not comprehensive, nor is it a legal document. For more information, please refer to the NWT *Human Rights Act* or contact the Commission. Contact and website information is listed at the end of this document.

Please contact us to obtain copies of Commission publications. To receive this information in another language or format, please call 1-888-669-5575.

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## Introduction

The fundamental right to equality is protected in all areas of employment. This means equal access to employment opportunities and equitable treatment in the workplace. Everyone, including employers, benefits when job-related considerations such as ability, merit, and responsibility are the criteria used to evaluate applicants and employees. When these criteria are used in evaluation, employers get the best person for the job.

The NWT *Human Rights Act (Act)* prohibits discrimination on the basis of:

- race
- colour
- ancestry
- place of origin
- ethnic origin
- nationality
- sex
- sexual orientation
- gender identity
- gender expression
- family status
- marital status
- family affiliation
- social condition
- religion
- creed
- political belief
- political association
- pardoned criminal conviction
- disability
- age
- record suspension

The *Act* embodies the principle that all persons should be assessed on individual merit. Characteristics unrelated to job performance should not be considered. This means employers and employment agencies should only ask questions related to the job requirements.

The *Act* prohibits employers and employment agencies from discriminating during the hiring process, promotions, transfers, lay-offs, dismissals, or any other terms and conditions of employment. The *Act* also applies to trade unions, employers' associations and occupational associations.

## Employer's Rights

Employers have the right to hire, dismiss, promote and establish conditions of employment that best serve their corporate goals with the understanding that merit is the guiding principle in all aspects of employment.

### **Employers have the right to:**

- define specific employment needs according to business priorities
- require job-related qualifications and/or experience
- set employment terms and conditions
- hire, promote and assign the most qualified person for a position
- establish standards for evaluating job performance
- establish salary and wage scales either independently or through negotiations
- require adherence to clearly defined job descriptions and performance criteria
- discipline, demote or dismiss incompetent, negligent or insubordinate employees
- expect a full and impartial investigation of any complaint filed against them under the *Human Rights Act*

## Employee's Rights

The *Act* protects employees and job applicants by ensuring that employment decisions are based on job-related criteria and not discriminatory factors. All employees have a right to work for an employer who complies with the provisions of the *Act* and who promptly addresses human rights issues in the workplace.

### **Employees have the right to:**

- work in an environment that is free from discrimination and harassment
- file a complaint without fear of reprisal

## **An employee should:**

- be considered for jobs on the basis of individual assessment
- be given a clear statement of the skills, experience and education required for the job
- be informed of duties and performance expectations
- be advised of any shortcomings and permitted an opportunity to improve their job performance
- inform their employer if they need an accommodation for matters related to a protected ground such as a disability or pregnancy

## **Recruitment**

Recruitment procedures that are free from bias will attract the widest selection of applicants. If recruitment appears to exclude a particular group or class, qualified candidates may be discouraged from applying. An effective recruitment is one where all qualified candidates are encouraged to apply.

### **Special Programs**

The *Act* allows employers to adopt employment equity and other special programs that are designed to improve the condition of disadvantaged individuals and groups.

Employment equity programs remove barriers to employment faced by members of disadvantaged groups in order to create workplaces that are representative of the people they serve.

### **Pre-Employment and Post-Hiring Inquiries**

An employer runs the risk of receiving a complaint of discrimination if they ask candidates questions related to the prohibited grounds which are not directly related to the job requirements.

A distinction can be drawn between pre-employment and post-hiring inquiries. Questions that could be considered discriminatory before hiring may be asked afterwards if there is a legitimate need for the information. For example, a candidate's marital status should not be asked before hiring but may be asked afterwards for taxation purposes or employee benefits.

## Interview Guidelines

The guidelines on the following pages can help employers establish recruitment and selection policies and practices. There is information about what types of questions employers can ask to gather information relating to a person's ability to do a job. Areas to avoid are also noted.

The guidelines are not all-inclusive. If you have specific questions about your interview process or want to know more about what you can ask prospective employees, give us a call. We're here to help.

## Employment Agencies

An employment agency cannot refuse to refer a person for employment on the basis of a protected ground. The *Act* specifically prohibits employment advertisements that express a limitation, specification or preference based on a prohibited ground. The exception to this rule is when the limitation, specification or preference is based on a **bona fide occupational requirement**.

Ads containing accurate, job-related qualifications will save time and energy for employers and applicants and help prevent complaints of discrimination.

For more information on **bona fide occupational requirements**, see page 15 of this guide.

### Case Study #1

*A moving company requires employees to walk and climb while carrying heavy objects for up to 5 hours per shift. An employer might ask an employee to provide medical confirmation that they can meet this requirement instead of asking if they have a disability.*

## Interview Question Guidelines

Ground	Acceptable Questions
Age	<ul style="list-style-type: none"> <li>• After hiring, an applicant's age may be asked for benefit and insurance plans</li> </ul>
Race Colour Ancestry Place of Origin Ethnic Origin	<ul style="list-style-type: none"> <li>• Are you legally entitled to work in Canada?</li> <li>• All those legally entitled to work in Canada must be given equal employment opportunity unless there is a legal restriction stating otherwise</li> </ul>
Pardoned Criminal Conviction Record Suspension	<ul style="list-style-type: none"> <li>• Consent to conduct a security check. Only unpardoned records will be made available</li> <li>• If bonding is required, ask applicants if they are eligible to be bonded</li> </ul>
Mental or Physical Disability	<ul style="list-style-type: none"> <li>• Applicants may be asked job-related questions concerning their ability to do the job</li> <li>• An applicant's disability is relevant to the job only if it prevents that person from effectively carrying out the essential components of the job</li> </ul>
Political Belief Political Association	
Sex Sexual Orientation Marital status Family Status Gender Identity Gender Expression	<ul style="list-style-type: none"> <li>• If job mobility is required, ask applicants if they are willing to travel or be transferred</li> <li>• Information regarding spouse, children and/or dependents required for benefit and pension plans can be obtained after hiring</li> <li>• Information about a candidate's previous name may be relevant when performing reference checks</li> </ul>
Religion or Creed	<ul style="list-style-type: none"> <li>• Applicants may be asked job-related questions such as whether they are available for the required work time</li> <li>• Employers must be reasonable in accommodating the religious needs of employees</li> </ul>



## Questions to Avoid

- Asking about age in general, or about birth certificates
- Asking about birthplace or nationality, including nationality of relatives or spouse
- Asking generally about past criminal records, regardless of whether they've been pardoned
- Asking for a general statement of disabilities, limitations or health problems
- Asking for statements of political beliefs and philosophy
- Asking about political party affiliations
- Asking about an applicant's sex or sexual orientation
- Asking for information regarding pregnancy, childcare arrangements, or childbearing plans
- Asking whether the applicant is single, married, divorced, engaged, separated, widowed or living common-law
- Asking a candidate about their body, surgery, or clothing
- Asking for statements concerning religious affiliation, religious belief and church membership

## Wage Discrimination

The *Act* requires that employees doing similar or substantially similar work be paid the same wage. The exceptions occur if:

- the difference in wages is based on a seniority system
- the difference in wages is based on a merit system
- different costs of living exist in different communities
- there is another factor unrelated to a ground of discrimination

The obligation rests with the employer to ensure that a prohibited ground of discrimination is not a factor in determining wages.

## Harassment

Harassment occurs when a person is subjected to repeated unwelcome and offensive behavior at work. This could be from a supervisor, co-worker, contractor or customer. Any conduct that repeatedly attacks a person's dignity and self-respect could be considered harassment. The *Act* deals with harassment when it is related to one of the protected grounds.

Harassment can take many forms including:

- Material that is racist, sexist, ageist, sexually explicit, anti-gay or lesbian, or insulting based on a ground of discrimination that is displayed publicly, circulated, or put in someone's workspace or belongings, or on a computer or fax machine
- Verbal abuse or comments that put down or stereotype people generally, or an individual particularly, because of their sex, pregnancy, race, sexual orientation, disability, or other ground of discrimination
- Jokes based on gender, race, marital status, sexual orientation, disability, or other ground of discrimination
- Offensive gestures that are sexual or racial in nature
- Ignoring, isolating or segregating a person or group because of their sex, race, sexual orientation, etc.
- Staring or leering in a sexual manner

- Physical contact of a sexual or aggressive nature
- Repeated behaviour that is known to offend.

Employers can be liable for:

- Harassment by supervisory personnel
- Co-worker harassment that creates a poisoned environment or which has a negative effect on the work environment
- Harassment of employees by clients, customers or others

### **Case Study #2**

*Pardeep is of South Asian ancestry and works in a retail store. A customer became angry when Pardeep explained that his order was late. He called her racist names and told her she should go back to where she came from. He stormed out of the store. Later that day, the customer called Pardeep and continued his verbal abuse over the phone. Pardeep responded by swearing at him and hanging up. Pardeep's manager overheard her swear and threatened to fire her. When Pardeep explained what happened, the manager called the customer and told him that it was not acceptable to verbally abuse employees. Pardeep was not reprimanded.*

# Duty to Accommodate

## What is Accommodation?

Accommodation means making changes to certain rules, standards, policies, workplace cultures and physical environments to make sure that a person is not discriminated against – or excluded – because of their age, race, sex or any other protected ground.

Accommodation is based on the principle that treating everyone the same does not always result in equality. Sometimes we need to treat people differently in order to achieve equality of opportunity in the workplace. Some examples of simple things an employer can do to accommodate include:

- purchasing or modifying tools, equipment or aids
- altering the premises to make them accessible
- altering aspects of the job, such as job duties
- offering flexible work schedules
- offering rehabilitation programs
- allowing time off for recuperation
- adjusting policies (for example, relaxing the requirement to wear a uniform)

Accommodation in employment most often involves the grounds of physical or mental disability, sex (including pregnancy), and family status. An employer's duty to accommodate employees and job candidates is far reaching. It involves both the process used to consider accommodation as well as the accommodation itself. It can begin when a job is first advertised and finish when the employee requiring accommodation leaves the job.

Accommodation balances the diverse needs of individuals, groups, organizations and businesses in our society. Accommodation may cause some inconvenience, disruption and expense however, accommodation usually costs very little, often less than hiring and training a new employee.

## The Duty to Accommodate is a Shared Responsibility.

Creating an inclusive workplace may involve some modification to the job or existing facilities. The duty to accommodate requires employees to request

an accommodation if they require one to do their job. An employer must consider how a job or the work environment could be modified to ensure that person is not unfairly denied the opportunity to work when asked for an accommodation by an employee.

Accommodation is a shared responsibility. Flexibility, good communication and cooperation between the employee and the employer are key to successful accommodation.

## Employees

The employee should tell the employer what their specific needs are. The employee should be willing to provide supporting documentation and to help find a suitable accommodation. Employers cannot be expected to automatically understand the accommodation needs of an employee, particularly if the needs are not obvious.

Both employees and job candidates should ask about any accommodation they need to overcome a disadvantage in the workplace. For example, a job candidate could ask for a different office chair, computer equipment or software to accommodate their disability if they are successful in the job.

Employees are expected to be reasonable in their requests and when considering proposals that address their needs effectively. Employees must cooperate in the development of reasonable accommodations. A human rights complaint may not stand up if an employee has not cooperated.

### Case Study #3

*Hilda delivers mail for a large company. She always mixes up the mail for two employees with similar names. Hilda has an intellectual disability. Her supervisor understands that the problem might be related to Hilda's disability. He also suspects she is unable to ask for a workplace accommodation. Her supervisor talks to Hilda and develops a way for mail to be addressed that helps Hilda distinguish between the two employees.*

## Employers

The duty to accommodate applies to all NWT employers. Employers must respond to a request for accommodation. Employers must consider all options available for accommodation. The employer is expected to provide the accommodation that most respects the dignity of the employee at the same time as not imposing an undue hardship on the employer. There is more information on undue hardship below.

## Unions

Unions are an important part of the accommodation process. Through collective agreements unions can, unintentionally, create workplace rules that have discriminatory effects. Unions can become a party to discrimination if they block an employer's efforts to find an accommodation. Unions are expected to facilitate accommodation up to the point of undue hardship on the union.

## When is Accommodation Required?

Employers have a legal duty to take reasonable steps to accommodate an employee who requests accommodation when it is based on one of the prohibited grounds of discrimination listed on page 4.

Sometimes employers have a duty to accommodate even if there has not been a specific request from an employee. For example, there may be a dramatic change in the employee's behaviour that suggests that he or she needs accommodation. An employer should approach the employee about accommodation if the employer suspects that the worker might have difficulty at work relating to a prohibited ground under the Act.

### Case Study #4

*Archie has been diagnosed with bipolar disorder. He does not tell his new employer about his illness because he believes a mental disability will be held against him. He experiences a crisis at work and does not return to the job for a few days. When his employer contacts him, Archie lets him know that he has a mental health problem. They agree that he access counseling during work hours through the Employee Assistance Program.*

## When is Accommodation Not Required?

Here are some exceptions to the duty to accommodate:

- denominational schools if the preference is related to its religious beliefs
- non-profit groups and charities, if the preference is related to the goals of the group
- a business owner giving employment preference to a family member because of their family relationship
- unequal pay based on something other than the prohibited grounds of discrimination, such as seniority, merit or regional differences in the cost of living
- if the request for accommodation does not fall under one of the grounds of discrimination in the *Act*
- where there is a bona fide occupational requirement (see below)

There are times when an employer may have met its duty to accommodate. For example:

- An employee denies there is anything wrong and refuses the employer's assistance. The employer met its duty to accommodate by discussing and offering accommodation options to the employee.
- The employee refuses a reasonable offer of accommodation. The employer and employee discuss various options for accommodation. The employer offers an accommodation that is reasonable and that respects the employee's dignity. However, the employee refuses everything but his or her ideal accommodation.

## What is a Bona Fide Occupational Requirement?

Discrimination may be allowed if an employer can show that a job requires a discriminatory standard, policy or rule. An obvious example is when an employer refuses to hire a legally blind person as a driver. A **bona fide occupational requirement** of a driver position would be the ability to obtain a driver's license.

To defend a job requirement as a bona fide occupational requirement, an employer must prove that the accommodation requested imposes an undue hardship on the organization. Specifically, an employer should be able to answer “yes” to the following three questions:

1. Is the job standard reasonably connected to the duties of the job?
2. Was the job standard adopted in the honest belief that it is necessary?
3. Would it create an undue hardship for the job standard to be changed or removed to accommodate the employee?

### Case Study #5

*Jim was a rock truck driver for an open pit mine. He broke his hip and became permanently disabled after a workplace accident. A bona fide occupational requirement for a rock truck driver is to sit for long periods of time. Jim could no longer do this. He needed to work in a position that allowed him to sit and walk at regular intervals. The mine continued to employ Jim while he was on long-term disability, but did not hold his job for him. The insurance company and compensation board paid for re-training. Jim returned to the mine and was placed in the ore processing plant in a position that accommodated his disability.*

### What is Undue Hardship?

Undue hardship occurs when an accommodation creates unmanageable workplace issues for an employer. Examples might be unbearable financial costs or serious disruption to business. The facts of each situation are different. Determining undue hardship depends on the individual circumstances. Employers can consider the factors listed below to decide if an accommodation would result in undue hardship.

**Financial Costs:** Financial costs must be substantial to cause undue hardship. When assessing undue hardship, consider both lost revenue and any financial gains, such as increased productivity, tax exemptions, grants or subsidies.



**Size and Resources of the Employer:** Large organizations with a lot of resources are usually better able to absorb the impacts of accommodation than a small family-run business with only a few employees.

**Disruption of Operations:** Consider the extent to which the accommodation would disrupt carrying out essential business. For example, could a workplace be modified in a way that would not substantially interfere with work flow?

**Morale Problems of other Employees:** Is morale negatively affected by the accommodation because of such things as an increased workload and more overtime being required of other employees? Are other employees experiencing difficulties with sleep or other health issues?

**Substantial Interference with the Rights of Others:** A proposed accommodation should not interfere significantly with the rights of others or discriminate against them. The objections of others must be based on well-grounded concerns that their rights will be affected. For example, a substantial departure from the terms of a collective agreement could be a serious concern.

**Interchangeability of Work Force and Facilities:** Can an employer relocate employees to other positions on a temporary or permanent basis? This may be easier for a larger company.

**Health and Safety Concerns:** Consider the level of risk and who bears that risk. The following hardships are not normally considered to be undue:

- reasonable overtime or leave costs
- customer or other employees' preferences
- the cost of meeting building codes or other legislation
- the cost of responding to a grievance or a minor disruption to a collective agreement

## What Can I Ask about Accommodation?

The privacy rights of a worker must be balanced with the employer's need for information in order to provide the most appropriate accommodation.

Privacy issues usually come up when an employee requests an accommodation based on a disability. Employers can ask about:

- the prognosis for full or partial recovery
- the employee's fitness to return to work
- the employee's fitness to perform specific parts of their job
- the likely length of time for any physical or mental restrictions or limitations

Employers are not automatically entitled to a diagnosis of an employee's illness or disability. They are also not necessarily entitled to information about an employee's specific medical treatment. It is the employee's responsibility to provide information that will help the employer assess an accommodation request.

### Case Study #6

*A taxi service charges extra fees for clients who request a van. The taxi service has only one van and it is often requested for larger groups. The van is also the only form of accessible public transportation for clients who use a wheelchair. One of these clients was Marie.*

*Marie asks the company to waive the extra charge for the van. She explains that her wheelchair cannot fit into any other taxi because it does not collapse to fit in the trunk. She explains that she does not have another option so she should not be charged for it as a "special request."*

*The taxi company realizes that its rule – to charge everyone the same extra fee for the van – has an adverse effect on Marie. The company decided to change their rule so that Marie, and others who use wheelchairs, paid the regular taxi fare for the van. The company continued to charge the extra fee to other clients that requested the van.*

## Frequently Asked Questions

### **Q. Do I have to create a new job to accommodate an employee?**

**A.** An employer does not have to create a job that otherwise would not exist, other than short-term light duty or rehabilitation assignments. Employers are required to try to modify existing job tasks between employees to meet their duty to accommodate.

### **Q. How much time off work do I have to give a worker before letting them go?**

**A.** Each situation is different. An employer might consider factors that could prove an undue hardship, such as unpredictable absenteeism and how critical regular attendance is to the position. In many cases it is seen as reasonable to hire a temporary worker to fill in for periods of up to 18 months.

### **Q. Can an employee refuse certain job duties because of their religious beliefs?**

**A.** It could be reasonable to exempt an employee from occasional, non-essential or incidental duties that cause a conflict with their beliefs. An example might be excusing a devout Catholic social assistance worker from authorizing medical coverage for an abortion. That particular file could be transferred to a different worker. In other cases, it could be undue hardship for an employer to exempt someone from performing core job functions.

### **Q. What happens if I have provided accommodation but the situation is still not working out?**

**A.** Accommodation is not always a one-time action. An employee's needs could change over time. A request for a new or different accommodation may be legitimate. However, some behaviours, such as consistently arriving late for work, may be a management issue. Employees must understand the performance and workplace ethics expected of them.

**Q. Do I have to pay the employee the same rate of pay if they can't do the job?**

**A.** An employee should continue to receive the same rate of pay they received before the accommodation. Exceptions might be if the employee's duties have changed significantly or the employer would experience undue hardship to maintain their rate of pay.

**Q. What happens if an employer does not meet its duty to accommodate?**

**A.** If an employer refuses to accommodate to the point of undue hardship, it leaves itself open to a complaint under the *Act*. The employer would have to provide information to show that it would be impossible to accommodate the employee without undue hardship, or that it attempted to accommodate the employee, but the employee refused reasonable accommodation. An employee cannot be fired for making a human rights complaint.

**Case Study #7**

*Jeremy asks for five days off to travel and to attend his uncle's funeral. The company's policy provides only three days of compassionate leave for the funeral of a member of the extended family. Three days is not enough time for Jeremy to travel and to attend the funeral. Jeremy asks for, and receives, additional unpaid leave to be with his family because in his culture it would be inappropriate to miss his uncle's funeral.*

**Case Study #8**

*Helen worked at a full service gas station and convenience store. When she became pregnant, the smell of the gas fumes triggered her morning sickness. Her doctor told her that she should not work closely around gas fumes during her pregnancy. Helen gave a note to her employer. She asked her employer if she could work exclusively in the convenience store doing all the paperwork. Her employer agreed. After Helen returned from maternity leave, she went back to her previous duties.*

# Planning for Workplace Accommodation

The best defence against human rights complaints is to develop an inclusive workplace, adopt an accommodation policy and to be informed of your responsibilities.

There are benefits to developing policies and procedures that support a discrimination-free workplace. Damaged reputations, as well as costly and upsetting legal processes, can be avoided by letting everyone know the rules and what behaviors are acceptable.

Employers should consider developing accommodation policies and procedures and providing ongoing education about human rights issues to their management and staff.

## Suggestions for a Workplace Accommodation Policy

Most employers have human resource policies to ensure that all workers are treated fairly and consistently. A policy for workplace accommodation provides everyone with a common set of expectations and understandings about the duty to accommodate.

Here are suggestions of what you might include in your workplace accommodation policy:

1. **Policy Statement** – Include the purpose of the policy, the employer’s commitment and the legal context. For example, include what the *NWT Human Rights Act* says about the duty to accommodate and the prohibited grounds of discrimination.
2. **Employer Responsibilities** – Include the responsibility to review requests, verify needs, respect confidentiality, assess, identify and implement accommodations.
3. **Employee Responsibilities** – Include the responsibility to advise the employer of needs, provide backup information about needs, cooperate in the search for and implementation of accommodation. Indicate that a failure to cooperate may lead to denial of the employee’s request for accommodation.

4. **Education** – Identify how the workforce is educated about the employer’s legal obligations and employee responsibilities.
5. **Monitoring** – Include how accommodations will be monitored for effectiveness, need for change over time, and to determine if and when the accommodations are no longer required.
6. **Appeals** – If possible, include information about the right to appeal if an accommodation is refused. You could also advise that there is a formal complaint process through the NWT Human Rights Commission.

### Suggestions for Workplace Accommodation Procedures

A thorough policy includes procedures. Procedures provide details for how a policy is implemented. Here are some items that can be included in your accommodation procedures:

1. **Information and Initiating Requests** – Who has the responsibility to inform employees and job applicants about their rights? Who should an employee who needs accommodation approach?
2. **Processing Requests** – Describe the process used to deal with requests for accommodation. Consider including policies that allow managers financial or other authority necessary to facilitate accommodation.
3. **Undue Hardship** – Who is responsible for making decisions concerning questions of undue hardship?
4. **Appeal Process** – Describe the appeal process if a job candidate or employee is refused accommodation or is unhappy with the accommodation offered.
5. **Training** – Describe how staff who are responsible for workplace accommodation are trained.
6. **Review** – How often will the policy and procedures be reviewed? Include who is responsible and any requirements for reporting on the review.

## Checklist for Responding to a Request for Accommodation

Here is a suggested checklist of steps to take when faced with a request for accommodation. You can also use these suggestions if you suspect that an employee might need an accommodation to meet the normal expectations of the workplace.

### Gather information

- Find out if an employee's request for accommodation, or your suspicion about a possible need for accommodation, falls under *Act* or the collective agreement. There is no legal duty to accommodate the request if it does not fall under the *Act* or the collective agreement. When in doubt, contact the Commission for information or contact your lawyer for legal advice.
- Review the information that the employee provides to support the request. For example, medical documents.
- Listen to and consider the needs of the employee and his or her suggestions for accommodation.
- Do you need more information than the employee has already given you. For example, further medical information?
- As much as possible, ask the employee to provide the information you might need in writing.
- Once you have the information that allows you to assess the employee's accommodation request, proceed to the next steps.
- Reply to the request for accommodation within a reasonable amount of time.

### Review current job

- Can the employee perform his or her current job without accommodation?
- If not, determine if the employee can perform the existing job in a modified form.
- If this is not possible even with accommodation, document this and explain the reasons in writing.

## **Examine other jobs in the workplace**

- Identify all other job possibilities in the organization.
- Determine if the employee can perform another job in its existing form.
- If not, determine if the employee can perform another job with modifications.
- Identify which of the essential duties of those jobs the employee can do and what they cannot do.
- Identify what can be done to enable the employee to perform any of the possible jobs.
- If an accommodation in another job is not possible, document this and explain the reasons in writing.

## **Discuss job assessment results with relevant parties**

- Get input from the employee and the union (if there is one). Discuss what the employee can do from the options you have identified.
- Get input from medical or other relevant experts on what the employee can do for any of the options you have identified.

## **Decide on appropriate and reasonable accommodation**

- An employee is entitled to reasonable and appropriate accommodation. An employee is not entitled to the precise accommodation they want or the most ideal solution.
- If full accommodation is not possible without undue hardship, try to suggest options that may partially meet the needs of the person seeking accommodation.
- If accommodation is not possible at all due to undue hardship, make certain you have the necessary information to support this. Document in writing why you cannot accommodate. For example, if cost is a factor, show why the particular cost of implementing an accommodation is an undue hardship.

## **Implement**

- Outline in writing what will be done and include any terms or conditions that apply.



- Make sure supervisors and co-workers are aware of what is being done and why. Ask for and obtain their support if needed.
- Respect the privacy of the employee. For example, keep information verifying the need for an accommodation confidential.

## **Monitor**

- Follow up to ensure that the accommodation meets the needs of the person who requested the accommodation.
- Review and modify the accommodation if circumstances or needs change (including if accommodation is no longer required).

### **Case Study #9**

*Sarah's child care provider insists that children in her care be picked up by 4:30 pm. Sarah asks to leave work at 4:15 pm and make up the time in the morning and over the lunch break. Her employer's small store is open until 5:30 pm but her boss agrees to accommodate Sarah by agreeing to look after customers during the last hour of business or hire a part-time employee to cover the end of the day.*

### **Case Study #10**

*Bob has an interview for a job he really wants. However, when Bob dropped off his application form, he noticed that there was a strong perfume scent. He explained to the employer that his asthma is aggravated by scent. He asked if the interview could take place outside the office. The employer said that he has been thinking of establishing a scent-free workplace anyway and asks Bob to come to the office for his interview.*

## Let's Talk

For more information about accommodation, resources on human rights issues, or how to file a complaint, contact the Commission.

**Call us** toll-free at 1-888-669-5575  
or locally at 867-669-5575 Monday to Friday.

**Email us** at [info@nwthumanrights.ca](mailto:info@nwthumanrights.ca)  
We will respond to your email within one business day.

**Visit our office** during business hours 8:30 am to 5:00 pm Monday to Friday  
at 5003-49<sup>th</sup> Street in the Arthur Laing Building.

Stay up to date on all of our news, programs, and initiatives by visiting our  
website at [nwthumanrights.ca](http://nwthumanrights.ca).

**Join us on Facebook** at [facebook.com/nwthrc](https://facebook.com/nwthrc)

We have a great Facebook page full of positive stories to get you thinking and  
talking about equality human rights. Stop by and join the conversation. We  
love hearing from you!

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