

# HUMAN RIGHTS CODE (THE CODE) AND EMPLOYMENT RIGHTS

- The Code does not allow any kind of discrimination or harassment in the workplace.
- The Code asks employers to ensure that all employees are treated with respect.

The Code states that every person has a right to equal treatment with respect to employment without discrimination or harassment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, and record of offences, marital status, family status or disability. Employers have a legal duty to accommodate the needs of persons who are protected by the Code, short of undue hardship.

• **Duty to accommodate:** The Code requires an effort, short of **undue hardship**, to accommodate the needs of persons who are protected by the Code. **Duty to Accommodate** is the term used to describe the duties of an employer/service provider or landlord to give equal opportunities, access and benefits to people who are protected by The Code. The duty to accommodate recognizes that people have different needs & want different solutions to their needs. It would be unfair to exclude someone from the workplace or activities in the workplace just because their Code-protected needs are different from others

• **Undue Hardship:** Accommodation need not be provided if it causes undue or excessive hardship. However, some degree of hardship is expected and acceptable. An employer, service provider or landlord can reject a request for accommodation if they can prove that the required accommodation is **too costly** for their business / institution and that they are **unable to get external funding** to bear the cost of accommodation, or if the required accommodation is likely to cause significant health and safety risks.

## **The Right to Equal Treatment:**

Equal treatment with respect to employment covers all areas of the workplace environment and employment relationship, including:

- Job applications
- Recruitment
- Training
- Transfers
- Promotions
- Apprenticeship terms
- Dismissal and layoffs
- Rate of pay
- Overtime
- Hours of work
- Holidays,
- Benefits
- Shift work
- Discipline and performance evaluations

## **Some examples of religious-based accommodation for Muslims in the workplace:**

- Prayer times & space provided to Muslims
- Flexibility in work hours or break times for prayers, and/or during Ramadan
- Job restructuring, retraining or assignment to another position if an employee is not able to perform his/her duties because of religious beliefs like being required to serve alcohol
- Allowing an employee to wear a hijab even though the employer wants all employees to wear the same corporate attire or uniform
- Allowing an employee to take time off work for religious holidays.



### **Employee Responsibilities:**

- You are responsible for requesting accommodation
- Explain why you need it (preferably 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
- Cooperate with any experts whose assistance is required
- Try different forms of accommodation even if it is not the perfect accommodation
- Meet agreed-upon performance and job standards once accommodation is provided
- If you are an employee in a union, contact your union representative. Your union will often have good advice about your employer's procedures for getting accommodation.

### **Employer's Responsibility:**

- Accept the accommodation request in good faith, unless there are legitimate reasons for acting otherwise
- Understand someone might not use the word "accommodation" when they are looking to be served in a way that meets their needs
- Obtain expert opinion or advice where needed
- Take an active role in exploring solutions and options
- Keep a record of the accommodation request and action taken
- Maintain confidentiality
- Limit requests for information (e.g. medical reports) to those reasonably related to the person's needs, limitations or restrictions
- Grant accommodation requests in a timely manner
- Pay the cost of any required medical information or documentation
- If the accommodation would cause "undue hardship" (see definition above) such as extreme financial costs, explain this clearly to the employee and be prepared to demonstrate why accommodation cannot be provided

### **To make a Human Rights Complaint:**

To file a human rights complaint (application): [www.hrto.ca](http://www.hrto.ca)

Toll-free: 1-866-598-0322

TTY: 1-800-855-0511


You can also contact the Human Rights Legal Support Center for your human rights complaint:

<https://www.hrlsc.on.ca/en/contact-hrlsc/contact-information>

### **Brought to you by:**

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