

ACCOMMODATION IN THE WORKPLACE

Do employers have to accommodate their employees?

The law requires employers to accommodate for their employees' needs when they are based on characteristics protected by the Yukon *Human Rights Act* such as physical or mental disability, sex, religion, or age.

To learn more, please refer to the information sheet "Understanding the Duty to Accommodate".

Does an employee have to ask to be accommodated?

Often employees will advise their employer directly of their need for accommodation; however this is not always the case.

Employers need to be aware of signs such as changes in behaviour or job performance that may indicate an employee requires accommodation because of a physical or mental disability.

Here's what to do if an employee asks for accommodation or if you think they might need help:

- Find out what your employee's needs are. Keep in mind that employees might not always tell you directly so you might have to ask. (Note: if the employee denies there is anything wrong or doesn't want assistance, then the employer does not have to accommodate the employee.)
- Next, find out if the law requires you to accommodate those needs. The Yukon *Human Rights Act* lists the types of needs that employers have to accommodate, such as pregnancy, a physical or mental disability or religious practices. (Note: if it doesn't fall under the *Act* there is no legal obligation to accommodate.)
- Review any information your employee gives you that might help explain what their needs are. This may include information

from their doctor or caregiver about what kinds of tasks they can and can't perform and about what types of adjustments may be required.

- Listen to what your employee has to say. Ask them if they have any suggestions about what might work best.
- If you need more information to better understand the requirements and limitations of a specific disability, ask your employee for more information from their doctor or caregiver. For example, you can ask how much weight the employee can reasonably be expected to lift if that's part of the job.
- Document the process. It's a good idea to write down the steps you've taken, including putting any requests for information in writing in case you need to be able to prove your efforts later on.

Here's what to do once you know that your employee needs to be accommodated:

- Make sure you respond as quickly as possible.
- Take a look at your employee's current job. Find out what parts he or she can and can't do.
- Look at ways their current job might be changed to make it easier. Perhaps some tasks can be done a different way or maybe they can be switched for new tasks. There might be special equipment that can help or a better way to organize the office space. Be creative!
- If there's no way that can be found for the employee to do their current job, even with accommodations, make sure you explain why in writing.
- Next, look at whether there are other jobs in your company that your employee would be able to do without modification. If there aren't any, maybe there are other jobs they could do if the tasks were changed a little or with the help of special equipment. You might also consider adjusting the work schedule or making physical changes to the work space.
- Get ideas from the employee and talk to other people who can help such as medical experts, human resource staff or the union.

- Make a decision about what will work best. The law says you have to give your employee a reasonable and appropriate solution for their needs. If your employee wants an accommodation that you can't provide because of "undue hardship", explain why. Tell them what you are able to do.
- Most needs can be accommodated, but there are times when this is not possible. You must be able to prove that you have a good reason to claim "undue hardship". For example, if cost is a factor, you need to clearly demonstrate how much it would cost and why this would pose an unfair financial burden.

Here are some ways to make sure an accommodation will work:

- Put it in writing! Write down what tasks your employee is responsible for doing and what you will do to help.
- Explain to other people in the work unit what's being done and why. If their support is needed, make sure you ask for and receive it.
- Check in periodically to make sure that the solution is working. Find out if any adjustments need to be made or if the accommodation is no longer needed.

(Adapted from "Reasonable Accommodation Checklist for Employers", MHRC.)

To learn more about accommodation, please refer to our other information sheets:

- #1: Understanding the Duty to Accommodate
- #3: How to Write an Accommodation Policy

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