



ACCOMMODATING SPECIFIC GROUPS

RESOURCES FOR EMPLOYERS

INTRODUCTION

This document provides resources that will help employers provide accommodation to a few specific groups of employees whose personal characteristics are protected under The Saskatchewan Human Rights Code, 2018. They include:

- People with disabilities (disability)
- Employees with different religious beliefs (religion/creed)
- Caregivers (family status)
- Pregnant employees (sex)
- People who are transgender or gender diverse (gender identity)

Please note that this document provides general information only. This is NOT legal advice. We hope you find it useful but encourage you to seek legal advice where applicable.

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ACCOMMODATIONS FOR DISABILITY

Physical and Mental Disabilities in Human Rights

Physical disability and mental disability are defined in Section 2 of The Saskatchewan Human Rights Code.

Human Rights Commissions, Tribunals, and Courts have accepted many illnesses and ailments as physical and mental disabilities.

Some examples include:

Physical

- Back problems
- Carpal tunnel syndrome
- Colour blindness
- Heart conditions
- Kidney stones
- Multiple Sclerosis
- Migraines
- Osteoarthritis

Mental

- Anxiety
- Attention Deficit Hyperactivity Disorder (ADHD)
- Autism
- Depression
- Bi-polar disorder
- Dyslexia
- Panic attacks
- Post-Traumatic Stress Disorder (PTSD)

It is important to note that disabilities can be visible or invisible. Disabilities can be temporary or permanent. They can also be episodic, which means they change over time. People can be born with disabilities or develop disabilities when they get sick or injured.

Employers should not assume that someone has a disability or that they do not.



INVISIBLE DISABILITIES

Many disabilities that require accommodation are not immediately apparent to other people. Often, these invisible disabilities are misunderstood. People can face stigma as well as discrimination, including disbelief that a disability exists.

Part of creating an inclusive workplace is breaking down barriers, including attitudinal barriers, for all disabilities, including invisible ones, to allow people to participate fully and with dignity.

Invisible disabilities may include, but are not limited to:

- brain injuries,
- mental health disabilities,
- chronic pain,
- chemical sensitivities, and
- addictions.

Other invisible disabilities may include episodic disabilities, like epilepsy, or a disease that a person has chosen not to disclose, like cancer.

ACCOMMODATIONS FOR PEOPLE WITH DISABILITIES

If a person has a disability, it is good practice for employers to focus on their abilities rather than the diagnosis. This means focusing on what they can do and finding ways to support them. Accommodation can come in many forms, including:

Adjustment

Adjusting the built environment

- Providing a quiet space to work, headphones or earplugs
- Adding ramps
- Modifying desk height
- Moving employee's workstation closer to required equipment or rooms
- Removing barriers in pathways and work areas
- Providing assistive devices

Adjusting work start and finish times

Adjusting workplace procedures and methods

- Providing written material in large print and alternative formats



- Using photos and other modes of visual communication
- Adding closed captions to videos

Modifications

Modifying job requirements and/or job duties

- Reassigning physically or emotionally demanding tasks
- Altering deadlines or pace of work
- Assigning more tasks that align with the employee's strengths

Modifying schedules or rearranging shifts

Allowances

Allowing leaves of absence for recuperation or to obtain medical evidence

Allowing for a gradual return to work

Allowing for part-time hours or job sharing

Allowing service animals

Allowing the employee work from home



ADDICTION AND DISABILITY

Under the Code, employees and job applicants with drug or alcohol addictions are entitled to the same human rights protections as employees with other types of disabilities. When an employee has a drug or alcohol addiction, an employer must accommodate that employee up to the point of undue hardship.

Accommodating employees with drug or alcohol addictions can often be a five-step process:

Step 1 – Recognize the signs

Step 2 – Have a discussion

Step 3 – Gather and consider relevant medical information

Step 4 – Accommodate

Step 5 – Follow-up and adjust



ACCOMMODATIONS FOR RELIGION

The Supreme Court of Canada has defined religion as: *‘[F]reely and deeply held personal convictions or beliefs connected to an individual’s spiritual faith and integrally linked to [their] self-definition and spiritual fulfillment, the practices of which allow individuals to foster a connection with the divine or with the subject of object of that spiritual faith.’*

When approached with a request for religious accommodation, an employer should accept the request in good faith and talk with the employee to better understand the nature of the request so they can provide the appropriate accommodation.

Some examples of accommodation for religions can include:

- Allowing for prayer breaks
- Providing prayer rooms or quiet, private places for prayer or meditation
- Giving time off for the observance of religious holidays
- Accepting religious dress and symbol within the organization’s dress code
- Creating a company-wide policy that lets employees swap statutory holidays for other days of religious significance



DID YOU KNOW: Human rights legislation protection of religion in Saskatchewan covers more than merely mainstream or well-known religions and extends to creed and religious creed. As long as a person has a religious belief that’s “sincerely held”, regardless of how widespread that belief is, the employee is entitled to be accommodated. If an employee approaches their employer about religious accommodation, it’s important that that employer keep an open mind, avoid making off-the-cuff judgments of the legitimacy of any such belief or religion, hear the employee out, take steps to fulfill its duty to accommodate and document everything fully.

ACCOMMODATIONS FOR FAMILY STATUS

When an employee must care for a family member – whether it’s picking up a sick child from school, taking time off to care for a parent with a disability, or taking a grandparent to a medical appointment – employers have a legal obligation to accommodate that employee.

There is no one-size-fits-all solution when it comes to accommodating family status. But, often, these accommodations are best achieved through flexible work arrangements. Some possible accommodations include:

- Different or shifting start and end times
- Compressed work schedules
- Telework or remote work
- Leave to care for sick family members
- Leave to provide childcare of family care in unanticipated or emergency situations



- Shift changes
- Reduced hours or part-time work
- Shifting or sharing work duties



DID YOU KNOW: Caregiving responsibilities continue to fall disproportionately to women. Women still provide more personal care than men, work part-time because of family more often, and give up more hours of work from their full-time jobs to provide family care. Employers should support all workers, regardless of gender when it comes to accommodation based on family status. It can be valuable to have a senior leadership model in place where men with caregiving duties are supports in tending to family responsibilities.

ACCOMMODATIONS FOR PREGNANCY

Accommodations for a pregnant employee will often shift throughout their pregnancy. Employers should be creative and find flexible ways to accommodate their employees.

Some potential accommodations for a pregnant employee include:

- time off work for doctors' visits
- chairs for employees who usually stand while working
- flexibility with regard to washroom breaks, scheduling, and other working conditions
- (where requested) reduced hours of work, lighter duties, or temporary reassignment to other duties or another work location
- special measures or equipment to prevent health risks
- modified uniforms or dress requirements
- medical leave to recover from miscarriage or stillbirth



DID YOU KNOW: Employers should not arbitrarily decide a pregnant employee requires accommodations. Nor should you make assumptions about the abilities of a pregnant employee. Talk to them respectfully. If an employer believes a workplace condition will pose a health or safety risk to a pregnant worker, they should have a respectful discussion with the employee.

BREASTFEEDING

Section 2 of the Code makes it clear that the prohibited ground of sex includes pregnancy. This protection against pregnancy discrimination extends to the prenatal and postnatal stages of pregnancy, which covers the time from conception to birth to the period following the child's birth. It also includes the post-delivery period and breastfeeding.

Some ways employers can strive to accommodate breastfeeding include:

- Providing a quiet, private space for breastfeeding or expressing milk – if requested by the employee.
- Allowing employees to bring their infants to the workplace to breastfeed.



- Providing flexible work schedules to accommodate for breastfeeding. That could mean allowing for part-time work, granting requests for longer lunch or other breaks, allowing employees to finish early, etc.
- Providing storage space for expressed milk.

It should also be noted that an employer does not have the right to request medical documentation before allowing an employee to breastfeed in the workplace.

ACCOMMODATIONS FOR TRANSGENDER AND GENDER-DIVERSE EMPLOYEES

Gender identity is a person's internal and individual experience of gender. It is a person's sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex.

There is no set formula for employees who might require accommodation because of their gender identity. Each person's needs are unique and must be considered individually. The most appropriate accommodations are ones that best respect dignity, meet the employee's needs, and promote inclusion and full participation in the workplace.

Some accommodations that may support transgender and gender diverse employees include:

- Correct use of pronouns
- Name and gender title changes
- Supporting medical requirements
- Ensuring universal bathroom access
- Altering policies, practices and other requirements so they are more inclusive eg. forms with options beyond "male" and "female"



Employers should work collaboratively with an employee to ensure a successful workplace transition experience. Careful planning is essential. Specific elements of an individual plan should be drafted with the employee to ensure their needs are met. The plan could include:

- Logistical considerations such as how to communicate the change to colleagues/clients
- Updating systems and records to reflect the new name
- Training for management/colleagues/employees
- Anticipated dates for the change
- Medical leave/return to work (if applicable)



ACCOMMODATION: EMPLOYEE REQUEST (TEMPLATE)

Describe your restrictions, limitations, and needs. For example, “unable to lift heavy items.”

Indicate which protected characteristic(s) relate to your needs:

- Disability (physical or mental)
- Age
- Religion or creed
- Family status
- Marital status
- Sex (including pregnancy)
- Sexual Orientation
- Gender Identity
- Race or perceived race
- Place of origin
- Nationality
- Ancestry
- Colour
- Receipt of public assistance

Suggest potential options for accommodations

Explain how accommodation will help you work

How long do you require accommodations?

Date to discuss accommodation

Employee Name:

Date of Request: