



# Duty to accommodate

## A guide for CAPE members in the federal public sector

### Introduction

The duty to accommodate is a cornerstone of inclusive, fair, and accessible workplaces. For CAPE members and other federal public sector employees, accommodation is not only a right but an essential part of creating environments where all employees can fully contribute, regardless of individual circumstances or protected characteristics. This aligns with the objectives of the Policy on People Management, the Directive on the Duty to Accommodate, and the Accessible Canada Act and its regulations. This guide explains your rights and responsibilities in the duty to accommodate process, offering practical steps for requesting accommodation and outlining the expectations for both employees and employers. Our goal is to ensure that workplace accommodations are meaningful, effective, and supportive of all members.

### What is the duty to accommodate?

The duty to accommodate is a legal obligation employers have to make workplace adjustments for individual employees to ensure they can participate fully, regardless of any protected characteristics that may affect them. For federal public sector employees, these protected characteristics or “[protected grounds](#)” are defined in the Canadian Human Rights Act and include, but are not limited to, disabilities, religion, sex (including being pregnant), gender identity, and family status.

### What is an accessibility passport: Supporting consistent and ongoing accommodation needs

The GC Workplace Accessibility Passport is a proactive tool designed to simplify and support ongoing accommodation needs, particularly for employees with disabilities.

By documenting previously requested and granted accommodations, the goal of the passport is to ensure consistency as employees transition between teams, offices, or roles, and to serve as a central record for identifying specific barriers an employee faces. This record is intended to enable employees and employers to discuss these barriers openly, paving the way for practical solutions tailored to the individual. Ideally, with this passport, employees can initiate conversations about their needs and potential accommodations without needing to repeatedly explain or revalidate their requirements, promoting a smoother, more efficient accommodation process within and between departments.

## **What is the social model of disability? Focusing on removing barriers**

The duty to accommodate relies on the social model of disability, which focuses on the ways workplaces can eliminate barriers, rather than focusing on a person's specific impairment. Under this model, the responsibility is on the employer to identify and remove environmental, social, and structural barriers that hinder full participation, shifting away from the outdated "medical model" that emphasizes treating or fixing impairments. This approach aligns with CAPE's commitment to fair and accessible workplaces, where managers and employees work together to identify and address barriers.

## **Cooperation in the duty to accommodate process**

Cooperation between employees and employers is fundamental in the duty to accommodate process. Cooperation involves both parties engaging in open, respectful discussions about the employee's needs, functional limitations, and possible accommodation solutions. The objective is to reach an agreement on accommodations that address these needs without requiring exhaustive documentation. Employees should be ready to discuss their requirements, and employers should approach these conversations constructively and flexibly, striving for solutions that can be implemented without delay.

## **"Yes by default" approach to accommodation requests**

CAPE's position is that accommodations should be approved as an interim solution by default, allowing managers to make minor adjustments quickly without requiring medical documentation for every request. This approach encourages meaningful discussions to eliminate barriers where possible, resorting to medical notes only when accommodations cannot be identified through dialogue alone. By approving accommodations in principle first, employers and employees can work more efficiently to implement supportive, inclusive solutions in the workplace.

## Who is entitled to accommodation at work?

These protections extend to federal public sector and parliamentary employees, including CAPE members and even applicants to CAPE-represented positions, provided they are impacted by a protected characteristic in the Canada Human Rights Act. CAPE members enjoy additional human rights protections that have been negotiated into their collective agreements.

## What is an accommodation? What are some examples?

Accommodations are modifications or adjustments to the workplace, tasks, or responsibilities made by the employer to reduce or eliminate barriers to inclusion for the individual. Accommodations vary based on the needs of the individual worker. Examples include:

- modifying workstations for accessibility
- flexible work schedules or remote work options
- modifying duties or providing assistive technologies
- allowing time off for religious observances or medical treatments
- reassignment or relocation of the employee

## How does requesting and receiving an accommodation work in practice?

In most cases, an employee requests accommodation in writing to their manager. The employer reviews the request and typically offers a proposed solution or may ask for additional information from the employee.

While supportive documentation is sometimes required, it is generally not mandatory for every accommodation request. When medical notes are requested, they need only specify your functional limitations (i.e., the tasks, duties, work locations, etc., which you are limited from or unable to perform due to your protected characteristic). The employer does not have the right to know your diagnosis or any unrelated personal information.

The Directive on the Duty to Accommodate encourages managers to make informal arrangements whenever practical and to avoid requiring medical notes for minor requests. If you feel that your employer is asking for excessive documentation, reach out to your labour relations officer immediately. Management may request additional information but must do so reasonably, ensuring a balanced approach between gathering necessary information and respecting your right to privacy.

## **What if I am not offered the accommodation that I want or that my doctor has recommended?**

You may already have an idea of the specific accommodation you need, or perhaps your doctor has written a recommendation. While sometimes the employer provides exactly what you're asking for, the employer may counter-propose alternative options to reduce disruption or costs.

You must explore reasonable, good-faith alternatives, even if they are not exactly what you had in mind. However, you should not accept proposed accommodations that do not respect your limitations. Expert opinion and your lived experience are essential in determining appropriate accommodations.

## **The limits to accommodation (undue hardship)**

While employers must accommodate, there is a limit: undue hardship. This means that, if an accommodation significantly impacts the employer financially, operationally, or from a health and safety perspective, it may not be possible to offer it. However, employers must show clear and specific evidence if claiming undue hardship to deny an accommodation. In the context of financial ability to accommodate in the federal public service, the employer is the Treasury Board of Canada, not your individual manager or department.

## **Can the employer refuse to accommodate because of policy violations?**

Individual needs protected by the collective agreement and the Canadian Human Rights Act trump the employer's policies. The employer cannot rely on a rule or policy to justify discrimination: human rights are more fundamental and require that exceptions be made. They cannot use a policy as a "shield" to justify exclusion or barriers. Refusing accommodations based on a policy is discriminatory.

## **Key employee responsibilities**

Employees seeking accommodation must:

- Inform their employer of the need for accommodation
- Provide relevant information
- Work cooperatively with the employer to find suitable solutions, including not refusing reasonable alternatives

## Key employer responsibilities

Employers must:

- Assess accommodation requests in a timely manner. Ignoring or unreasonably delaying an accommodation amounts to a failure to accommodate.
- Assess each case individually, with accommodations tailored to the employee's specific needs and limitations.
- Make every effort to accommodate employees up to the point of undue hardship.
- Regularly review accommodations to ensure they continue meeting the employee's needs. For permanent disabilities, the review process should be reasonable and not overly burdensome, focusing only on verifying that the accommodations remain effective. If circumstances change, adjustments may be necessary.

## Key principles from recent grievance decisions

Recent duty to accommodate grievance decisions by the Federal Public Sector Labour Relations and Employment Board highlight issues and factors commonly reviewed. CAPE members can consider lessons from the following examples:

- Provide clear and comprehensive evidence: Sufficient medical information establishing a disability and related needs is essential for an accommodation to be assessed. A grievance was denied for insufficient evidence.
- Flexible and creative solutions: Accommodations do not need to be perfect, only sufficient. Some alternatives proposed by the employer, although imperfect, may meet the accommodation standard.
- Reassignment as accommodation: A reassignment after essential job tasks could not be modified for safety reasons may be a reasonable accommodation where necessary.

## FAQ: Workplace accommodations and support

### Navigating ergonomic and health accommodations

#### How can I access ergonomic assessments for my workspace?

You can make a request to your manager for an ergonomic assessment. If you need workspace adjustments, request an assessment to ensure a safe and comfortable work environment.

## **Can I request an ergonomic assessment for my office setup?**

Yes, employers must provide ergonomic support in line with the Canada Labour Code. While specific equipment may only be provided if medically necessary, your workspace should adhere to ergonomic principles. Your CAPE representative can assist you through this process.

## **What should I do if I have ergonomic needs or concerns?**

Your employer is responsible for ensuring your workspace meets ergonomic standards under the Canada Labour Code, Part II. They are required to ensure compliance with health, safety, accommodation, and ergonomic requirements, but this does not necessarily mean providing specific equipment unless it is required for medical reasons.

## **Mental health and family accommodations**

### **Can I request accommodations for my mental health when returning to the office?**

Yes, you can request accommodations for mental health needs. CAPE representatives are available to help you navigate the process and ensure your rights are respected.

### **What if I must care for a sick family member and need flexibility during the RTO transition?**

If you are caring for a sick family member, you can request flexible work arrangements or accommodations. Your CAPE representative will advocate for your needs to balance family responsibilities with work requirements.

### **I might have difficulty securing childcare. What should I do?**

Begin by discussing your concerns with your manager to explore alternative arrangements. If no solution is found, submit a formal accommodation request. Should it be denied, contact your CAPE representative for assistance in filing a grievance or exploring other options.

## **Legal and procedural accommodations**

### **What does accommodation mean?**

Under the law, employers must accommodate employees based on specific grounds, such as disability or family status, unless it causes undue hardship. Accommodations can include removing barriers that hinder full participation, such as allowing remote work.

## **Can I request full-time remote work as part of an accommodation under the duty to accommodate?**

Yes, under the duty to accommodate, employers must provide accommodations where necessary, including full-time remote work. Submit an accommodation request to your manager if you believe you qualify.

## **How should I go about requesting an accommodation?**

Start by submitting your request to your manager. While you do not need to disclose specific diagnoses, you are required to provide relevant medical documentation or other supporting information to demonstrate the need for accommodation. Your CAPE representative can assist you with this process.



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