



calgary outlink
Centre for Gender and Sexual Diversity

Know Your Rights Disability Rights in Alberta



This information sheet is designed to help you understand disability rights in Alberta. The information provided does not, and is not intended to, constitute legal advice; it is for general informational purposes only. It may not contain the most up-to-date legal or other information. Readers are urged to contact a lawyer to obtain advice with respect to any particular legal matter. Resources for pro-bono legal advice are provided throughout this information sheet where applicable.

The topic of disability can be complex and nuanced. The language used throughout this document may only reflect language used in certain spaces and contexts, such as language used by government entities when referring to legal matters. We acknowledge that people with disabilities use the terms that work best for them. We are not able to include all of the terms that individuals use for themselves throughout this document. Please keep the context of this document in mind as you are reading through it.

This information sheet has been produced with support from McCarthy Tétrault.



I have a disability, what kind of rights do I have in Alberta?

The Alberta Human Rights Act may require an employer or service provider to accommodate you if you have a disability. Defining disability is a complex and evolving matter, but in Alberta, disabilities fall into two categories, mental and physical disability.

How is physical disability defined?

“Physical disability” means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, or birth defect. Some examples of physical disabilities include: epilepsy, paralysis, amputation, lack of physical co-ordination, blindness or visual impairment, deafness or hearing impediment, speech impediment or the inability to speak, or physical reliance on a guide dog, wheelchair or other similar device.

How is mental disability defined?

“Mental disability” means any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder. Some examples of mental disabilities include: dyslexia, depression, schizophrenia, obsessive compulsive disorder, and anxiety disorders.

You mentioned someone might need to accommodate me, who exactly would that be?

If you have a disability, you may be able to receive accommodation from:

- anyone who provides goods or services that are available to the public. This would include post-secondary institutions, restaurants, stores, and government services;
- landlords; and
- an employer, during the hiring process and when you are working at your job.

What kind of accommodation do these people need to give me because of my disability?

First off, accommodation means that you are given an equal opportunity to participate in society regardless of your disability. An employer or service provider needs to take reasonable steps to make sure you have equal access despite your disability up to the point that it causes your employer or service provider what is legally called “undue hardship.” When you are requesting accommodation, it’s important to work with your employer or service provider to try to figure out what accommodation works, and accept an offer of accommodation that is reasonable. You can also refuse an offer if it’s not

Know Your Rights – Disability Rights in Alberta

reasonable. See “**Does that mean I might not get accommodated in the way I want?**” for more context around this.

Accommodation will look different depending on the disability. If you have a physical disability, accommodating you would involve making adjustments or alternative arrangements in the physical environment and making sure that there are no physical barriers preventing you from accessing services. If you have a mental disability, accommodating you would involve creating a psychologically safe environment and making sure that you have an equal chance to participate in your environment.

Do you have some examples of what accommodation would look like?

Some examples of accommodation could include:

- providing accessible facilities such as building a wheelchair access ramp or installing an elevator because you have a physical disability that limits your mobility;
- allowing for a flexible or modified schedule because you have a mental disability that makes it difficult to work at certain times;
- modifying certain job duties to better fit your specific disability;
- putting Braille buttons and a voice announcement system in the elevators of your apartment building because of your visual impairment; or
- your landlord creating a support plan with your family members or caregivers to support you as a tenant with a mental disability instead of evicting you if you disturb other tenants.

If you are a student at a post-secondary institution, some examples of accommodating a mental disability could include:

- providing you with flexible course delivery formats;
- flexible evaluation formats, such as allowing you to write exams, papers or do presentations; or
- providing individual services such as interpreters or note takers.

Major post-secondary institutions in Alberta all offer services to assist students with disabilities. See the links below for more information or talk to your institution to see how they may be able to accommodate you.

- University of Calgary - <https://www.ucalgary.ca/student-services/access>
- University of Alberta - <https://www.ualberta.ca/current-students/academic-success-centre/accessibility-resources/index.html>
- Mount Royal University - <https://www.mtroyal.ca/AcademicSupport/ResourcesServices/AccessibilityServices.htm>
- SAIT - <https://www.sait.ca/student-life/learner-services/accessibility-services>
- NAIT - https://learningservices.nait.ca/lrc_ls?id=lrc_ls_disability_services

You said my employer or service provider only needs to accommodate me to the point of “undue hardship”. What does that mean?

“Undue hardship” means a situation where the accommodation required to ensure a person with a disability has equal access would create significantly challenging conditions for the employer or service provider. Figuring out if an employer or service provider has reached the point of undue hardship will depend a lot on the specific disability in question and the surrounding circumstances.

We do know that it would create an “undue hardship” for a post-secondary institution to lower its academic standards for students with disabilities or release a student from the responsibility of developing essential skills or competencies expected of all students for their program. This means that your post-secondary institution is not required to lower your grade requirements or let you skip important portions of the course because of your disability.

An employer or service provider may consider the following factors when figuring out if they have reached a point of “undue hardship”:

- how much the accommodation may cost and if this will affect their ability to operate their business;
- if the accommodation will significantly affect a business’s ability to carry out its activities; and
- if the accommodation will create a health and safety concern.

If these factors indicate that an employer or service provider might have reached a point of undue hardship, it’s important to remember that they would still need to accommodate you up until they face that undue hardship. This means both groups might need to compromise to find a reasonable solution that works. A perfect solution might not always be possible in all situations – and the law does not require a perfect solution.

Does that mean I might not get accommodated in the way I want?

That would be correct. In Alberta, when accommodating someone, an employer or service provider only needs to offer a reasonable option of accommodation. This might mean you may not be accommodated in the way you want to be. If your employer or service provider offers you accommodation that is reasonable, you can’t decline and then file a complaint against them.

Figuring out what “reasonable” looks like might be difficult and will depend on the specific circumstances and the disability you have. In Canadian law, when we try to assess “reasonableness” we consider how a hypothetical average and informed bystander might react to the situation. It may be helpful to try and think if this hypothetical person would consider the accommodation you are being offered is fair or think of your situation with a broad perspective considering what the situation may look like to all the parties involved.

How should I ask for accommodation because of my disability?

While there is no specific way someone must request accommodation, a general idea of how you could request accommodation and what the process could look like is:

- send a request to your employer or service provider asking for accommodation. It is best to do this in writing, and put information stating: why you require the accommodation, evidence or documents from a medical professional proving your disability, and suggestions of what kind of accommodations you would need;
- allow for some time for the employer or service provider to respond to the request for accommodation;
- if your employer or service provider offers you a certain type of accommodation, think about whether it is fair. If you don't think it is fair, you can write back to your employer or service provider explaining why you think so and ask for accommodation that is more helpful for you. If you think the accommodation employer or service provider has offered you is fair, you can accept!
- work with your employer or service provider to make the accommodation work. You should be willing to modify the accommodation plan if your circumstances or needs change; and
- notify your employer or service provider if your need for accommodation comes to an end.

It may be a good idea to have a lawyer help with any or all of these steps. A list of free legal resources can be found at <https://pbla.ca/get-legal-help/legal-resources/>. In the Calgary area, the following are several of the resources available:

- Calgary Legal Guidance - <https://clg.ab.ca/>
- Student Legal Assistance - <https://slacalgary.com/>
- Legal Aid Alberta - <https://www.legalaid.ab.ca/>

I requested accommodation but my employer or service provider hasn't done anything to change, what do I do?

If your employer or service provider fails to accommodate you and they can't show that accommodating you would cause undue hardship, then your employer or service provider might be breaking the law. You may file a complaint to the Alberta Human Rights Tribunal. If you have already refused a reasonable offer for accommodation, your employer or service provider has likely met their legal obligation and the complaint will likely fail.

How do I make a complaint to the Alberta Human Rights Tribunal?

To make a complaint, an individual must complete a Human Rights Complaint Form and email that form to ahrc.registrar@gov.ab.ca. The complaint form, a preliminary self-assessment, and instructions on submission can be found on the Alberta Human Rights Commission website at <https://albertahumanrights.ab.ca/complaints> or scan the QR code below.



A complaint must be made to the tribunal within one year after the alleged incident of discrimination. This one-year period starts the day after the date on which the alleged incident occurred.

If you would like more information on filing a complaint, the Alberta Human Rights Commission has a confidential inquiry line at 780-427-7661 or can be emailed at AHRCRegistrar@gov.ab.ca. If you call the confidential inquiry line, a message with your name and phone number where you can be reached.

If you are deaf or hard of hearing, a TTY service is available for making an inquiry. Dial 1-800-232-7215 and follow the prompts.

If you would like to receive legal advice prior to filing a complaint, free legal resources can be found at <https://pbla.ca/get-legal-help/legal-resources/>.

What will happen if the tribunal finds that my employer or service provider failed to accommodate me?

A remedy will be determined based on looking at the losses that you have experienced. The tribunal may factor in the nature of the contravention, the frequency and intensity of the contravention, how vulnerable you are, or the impact of your experience. A remedy may include one or more of the following:

- An order to an employer or service provider to accommodate you in a specific way;
- A verbal or written apology; or

Financial compensation for lost income and benefits as well as compensation for injury to dignity and self-respect.



calgary outlink

Centre for Gender and Sexual Diversity