



# Duty to Accommodate

*a co-op housing guide*





## Human Rights Law and Duty to Accommodate

In Canada, each province and territory has a set of human rights principles that are outlined in law. Although laws vary across provinces and territories, human rights legislation applies to housing across Canada. Canadian human rights laws take precedence over most other laws, so it's important to understand them.

Housing co-ops have always been strong communities because they value and respect diversity and difference. Duty to Accommodate legislation requires that these strong communities stay respectful of difference within the parameters of the law as well. And co-op boards should always be focused on good governance, which includes meeting the housing needs of *all* of its members, including those that require accommodation under the law.

Under human rights legislation, members of housing co-ops are protected from discrimination and harassment in their housing, and are entitled to accommodations related to disabilities and other protected aspects of their identities. Housing providers, including housing co-ops, have specific roles and responsibilities under human rights laws in Canada. Human rights legislation protects the rights of co-op members with different needs and identities in the interest of ensuring that all residents enjoy equal benefit, treatment and rights in their housing.

***In housing co-ops we generally use the term accommodation to refer to the housing that members live in. But in this guide, accommodation is the legal responsibility of the co-op to meet a member's need to ensure that they have fair and equal access to housing.***

Each province and territory has a defined set of human rights grounds that are protected, and it is illegal to discriminate against individuals who share, or are perceived to share these characteristics. If discrimination based on a protected human rights ground occurs, housing providers can face a human rights complaint and possibly a hearing at the province's or territory's human rights board or tribunal.

You can find details about your province or territory's human rights rules at the end of this guide.

This guide focuses on *the responsibilities of housing co-ops when a member makes a request for accommodation under human rights legislation*. Often, accommodation requests are related to disabilities, but accommodations related to other protected grounds can also be requested.

The following are examples of accommodation requests a co-op might receive from a member:

- A co-op member uses a wheelchair as a result of a physical disability, and needs an automatic door installed at the main entrance of the building.
- A co-op member cannot use an electric fob on their Sabbath day due to the rules of their faith, and requests an alternative way to access the building on that day of the week.
- A co-op member lives with severe anxiety and cannot leave their unit to drop off their rent cheques at the co-op office.
- An applicant to a co-op is a recent newcomer to Canada and is unable to provide a Canadian landlord reference as part of their application.
- A trans co-op member requires access to a universal single-user gender-neutral washroom in the co-op's meeting room in order to participate fully in the co-op's meetings.

## What is the Duty to Accommodate?

An important part of human rights law that applies to housing is the duty to accommodate (“DTA”). In some provinces and territories, the DTA is set out in legislation, while in others it has been established in case law. The DTA means that housing co-ops are obliged to make changes to their buildings, by-laws/ rules and policies to ensure that members who are protected by human rights legislation enjoy equality in their housing.

***Duty to accommodate means that housing co-ops must make changes to their buildings, bylaws/ rules and policies to make sure that all members can enjoy equality in their housing.***

When a member makes a request for accommodation based on a protected human rights ground, the DTA is triggered and co-ops are required to respond. Under human rights law, co-ops must engage in the accommodation process and ensure that reasonable solutions are implemented.

### **Example: A Successful Accommodation Process**

*Lee lives in a co-op in Sudbury. She performs smudging ceremonies in her unit as part of her Indigenous cultural and spiritual practices. A neighbour recently complained about smoke from the smudging ceremony entering their unit. The neighbour reported Lee to the board for interference, and the board sent Lee a letter stating that she must stop “smoking in her unit.”*

*Lee sent a response letter to the board that explained that smudging is part of her cultural and spiritual identity. She included a letter from an Elder in her community that explained the role of smudging in Lee's culture. She asked that her smudging ceremonies be allowed as an accommodation for Creed under Ontario's Human Rights Code. Understanding its duty to accommodate, the co-op board apologized to Lee, granted the accommodation, and offered to find ways to prevent smoke from transferring between units.*



## How does the duty to accommodate affect housing co-ops?

The duty to accommodate places several responsibilities and obligations on co-ops. Co-ops may be required to make physical changes to buildings, by-laws/rules, policies and procedures to accommodate a member's request. The duty to accommodate dictates that co-ops must:

- be willing to consider members' accommodation requests in good faith
- actively participate in the accommodation process
- cover all reasonable costs associated with accommodations.

***Good faith: If something is done in good faith it is done openly and honestly regardless of outcome.***

It should be noted that while the majority of duty to accommodate requests are made in good faith, there is the potential for some abuse. Co-ops are not obliged to accept a request for accommodations that is not in good faith.

## How is a disability defined in human rights law?

Accommodation requests are often related to disabilities. Generally, under human rights legislation the term "disability" covers a broad range and degree of conditions, including any degree of physical disability, developmental disability or mental disorder, both visible and invisible. As a general rule, disability should be interpreted in broad terms. Be aware that invisible disabilities, including mental health conditions, addictions and hoarding behaviours are usually considered to be disabilities under human rights legislation.





## How Much is a Housing Co-op Expected to Do?

Co-ops are responsible for providing reasonable accommodations, including covering associated financial costs, up to a point called “undue hardship”. The legal threshold for undue hardship is quite high. As a general rule, some form of accommodation should be made unless the co-op can demonstrate that it would impose serious financial hardship on the co-op, or endanger the health or safety of members.

### What is undue hardship?

Under human rights law, the only way for a co-op to be freed from its obligation to provide an accommodation is by establishing undue hardship. To establish undue hardship, a housing provider must demonstrate that after exploring all of the available options, a proposed accommodation would be so costly that it would threaten the financial viability of the organization, or that it would endanger the health or safety of the member or others.

***Undue hardship – where an accommodation would be so costly that it would threaten the financial viability of the co-op, or endanger the health and safety of members and others.***

Determining whether or not a housing provider has reached the point of undue hardship is up to human rights boards or tribunals, and decisions are made on a case-by-case basis.

#### 1. Remember, undue hardship presumes some hardship.

Providing an accommodation can take time and effort, and may have financial implications. Implementing an accommodation may cause inconveniences for an organization, and employees and third parties may require additional training or need to take on additional responsibilities as a result of an accommodation process. Be mindful that these types of issues are not valid considerations in assessing whether an accommodation is possible. The key factors that should be considered when determining the viability of an accommodation are its cost, and the co-op’s health and safety obligations.



## 2. It is up to the co-op to prove undue hardship.

Co-ops must take an active role in investigating options and seeking solutions throughout an accommodation process. If a co-op is unable to implement an accommodation option, the co-op should explore with the member whether there is another way to successfully achieve accommodation.

The onus is on the co-op to prove undue hardship. Evidence required to establish undue hardship must be objective, real, direct, and in the case of cost, quantifiable, and could include:

- financial statements and budgets
- data from practical studies
- expert opinion
- detailed information about negative effects on members.

## 3. The accommodation process is not an all-or-nothing proposition.

Co-operation, compromise and flexibility are the keys to a successful accommodation process. Co-op members are welcome to recommend their preferred accommodation option, but they must be willing to consider other suggestions and options. Co-ops are entitled to investigate solutions that are cost-effective and make sense for the organization, so long as they provide real and reasonable accommodation for the member. Both parties should be ready to collaborate, compromise, and remain open to all accommodation solutions that meet the member's needs.

## 4. Cost considerations must be measurable and directly related to the accommodation request.

When making decisions about the reasonableness of accommodation options, factors must be quantifiable and shown to be directly related to the accommodation. To establish that an accommodation option is too expensive, the co-op must be able to demonstrate that the cost would threaten the co-op's financial viability.

## 5. Co-ops should take steps to minimize costs.

Remember that it is possible for co-ops to find viable accommodation solutions even within the context of a tight budget. When creating an accommodation plan, co-ops can reasonably take budgeting constraints into consideration. Where acceptable, they may consider:

- Phasing in an accommodation
- Using creative design solutions and less expensive alternatives
- Exploring outside sources of funding.



## 6. Establishing undue hardship varies from case to case.

As with many legal principles, whether or not an accommodation meets the undue hardship threshold will depend on the situation. The following example demonstrates undue hardship in practice:

### **Example: Mwelwa needs a wheelchair after an accident**

#### **Version A: Undue hardship is reached**

*Mwelwa lives on the third floor of a co-op. After suffering damage to her spinal cord in a traffic accident, she uses a wheelchair. The co-op was built in 1945 and doesn't have an elevator. She has requested that the co-op work with her to ensure her third floor unit is accessible, and has requested the co-op install an elevator or an electric chair lift up to the third floor.*

*Understanding its obligation to accommodate Mwelwa based on her disability-related needs, the co-op's board hires a technical consultant to determine the capital costs of Mwelwa's request. The consultant finds that the high cost of the requests threaten the financial viability of the co-op and prevent the co-op from carrying out health- and safety-related repairs. When the matter is heard at the provincial human rights tribunal, the adjudicator agrees that undue hardship has been established.*

*Although the co-op could not provide the member's preferred accommodation, the co-op must investigate other possible solutions.*

#### **Version B: A reasonable accommodation is found**

*In the same scenario, Mwelwa has requested a transfer to a main floor unit of comparable size to her current unit; the installation of a ramp or chair lift at the front entrance to the building; and the installation of automatic door openers at the front entrance and on the door to her unit.*

*After working with technical consultants and undertaking careful consideration of its financial resources, the co-op's board determines that the co-op is able to: offer Mwelwa the next unit on the first floor that becomes available; proceed with immediate installation of a ramp; and install two automatic door openers over the next six months.*

#### **Lesson: The importance of collaboration and co-operation**

*Ideally, a co-op should aim to work collaboratively with members, so that if option A isn't feasible, they can mutually identify an option B. In the example above, after finding that undue hardship has been met, the board should share this information with Mwelwa, and advise her that they are interested in exploring alternatives that will meet her needs. After open discussions with the co-op, Mwelwa should understand why the co-op is unable to implement her requests. She should be given the opportunity to revise her request and be open to alternative solutions.*



## How does Human Rights Legislation affect my Housing Co-op?

Human rights legislation affects everyone. In co-ops, board members, managers, maintenance staff, agents/contractors and anyone acting on behalf of the co-op has a responsibility to follow human rights laws. Members have a right to equal treatment and to live free from discrimination. Remember that equal treatment does not necessarily mean identical treatment.



***Example: When identical application of the co-op’s rules does not mean equal access to housing for members***

*At XYZ Co-op members are required to maintain their front yards, as outlined in the maintenance by-law. Jaime lives with a severe anxiety disorder and has developed a fear of leaving the house. Because of this Jaime is unable to look after the front yard like other members, and it is starting to look run down. When Jaime advises the board of directors that this disability is making it difficult to look after the yard the board does not demand that the yard be maintained, but rather responds by asking the co-op’s Gardening Club to tend to Jaime’s yard.*

*By acknowledging that Jaime cannot be treated the same as every other member – that the rules cannot be applied equally in this case - the Board ensures that Jaime can still enjoy equal access to the same quality of housing as all other members without being penalized or stigmatized for a disability.*

*You will find that there are circumstances under which an accommodation request will not be made explicitly by a member, and yet it is still the responsibility of the co-op to make accommodations for the member. This is most often the case when people live with mental health, addiction, or hoarding issues.*



And when a co-op member makes an accommodation request, the co-op has duties and responsibilities that are defined in human rights law. Co-ops must:

- accept the request in good faith and enter into an accommodation process
- explore options that could satisfy the member's needs
- work co-operatively with the member to find an accommodation solution
- create an accommodation plan including schedules and deadlines if relevant
- cover the financial cost of the accommodation, including costs associated with any requested medical documentation
- together with the member, determine whether any outside sources of funding are available.

## What are the roles and responsibilities of the housing co-op?

### 1. Understand potential liability involved if the co-op fails to provide reasonable accommodation.

If a co-op fails to meet its obligation to accommodate a member's needs under human rights legislation, it could face a human rights complaint to the province's or territory's human rights board or tribunal. Human rights complaints are generally settled through mediation (which is private) or a hearing (which is public). If the board or tribunal finds that a co-op did not meet its human rights obligations, the co-op may be subject to financial penalties and additional remedial measures.

### 2. Be aware that human rights protections apply to applicants and future co-op members.

Human rights protections extend to future co-op members. This becomes relevant when applications for membership are being considered. Membership criteria must not conflict with human rights principles.

### 3. Accept requests for accommodation in good faith.

It is important for co-ops to accept accommodation requests in good faith, to respond in a timely manner, and to be willing to actively engage in the accommodation process. When responding to a human rights complaint, it is important for the co-op to demonstrate that it acted in good faith and met its obligations under human rights legislation. In some cases, an accommodation request may not need to be taken seriously if there is evidence to show that the request was not based in fact or truth. However, a co-op should seek legal advice in this situation.



#### **4. Understand what information the co-op may and may not request.**

To reach a reasonable solution, co-ops can request information to better understand why the accommodation is needed, and what is being requested. Co-ops may request medical documentation that speaks to disability-related needs, and explains what a reasonable accommodation might look like. It is very important to understand that co-ops are not entitled to certain types of detailed medical information, including diagnoses. Blanket requests for medical records or requests to meet with a specific health care provider are generally not acceptable.

#### **5. Maintain confidentiality.**

Co-ops must maintain *strict* confidentiality throughout the entire accommodation process. Information about members and/or their circumstances cannot be shared with anyone aside from those who must be directly involved in the process.

#### **6. Take an active role in investigating possible solutions.**

Co-ops must be willing to undertake research on the options available for accommodation in any given case. For example, if a member with a physical disability who uses a walker requires a place to sit in the building's lobby, but it has been established that installing a bench would violate fire regulations, the co-op is responsible for looking into other solutions (such as, for example, a fold-down chair).



#### **7. Respond in a timely manner and facilitate information sharing between the parties.**

When a request for accommodation is received, the co-op should respond promptly. It is important to ensure that accommodation requests are taken seriously and responses are given in a timely manner. A slow response would not reflect well on the co-op if the matter were ever to come before a human rights board or tribunal.

#### **8. Communicate with the membership about human rights legislation.**

It is good for co-ops to have an up-to-date human rights by-law/rule or policy in place which is readily available to all members. Co-ops can share information about the by-law/rule or policy at members meetings, through posters in the co-op or on the co-op's website.

#### **9. Be flexible.**

There is no single solution to any request for accommodation by a member, and accommodation processes require flexible, creative approaches to finding solutions.

***It's important for co-ops to remain flexible during any accommodation process. They should consider all creative solutions to any member requests.***

## What is the role of members in the accommodation process?

### 1. Know their rights and be willing to co-operate.

Co-op members should be aware of their legal rights as well as their obligations in the accommodation process. They must co-operate with the co-op throughout the process, and know that if their request is not thought to be reasonable and fact-based it is unlikely that the board will take action.

### 2. Clearly inform the co-op about their needs in writing.

A member who requires accommodation should provide a written request (unless they are unable to do so) to the co-op explaining the need for accommodation, how this need directly relates to a human rights ground, and proposing a solution that is acceptable to them. Once the request has been made, the member should co-operate with the co-op to discuss solutions and create an accommodation plan.

### 3. Communicate in a timely manner.

Throughout the process, members should do their best to provide the co-op with answers and information as quickly as they can, and keep the co-op informed of any necessary delays (for example, a doctor's appointment that is a few weeks away).

### 4. Obtain medical information if requested.

Co-ops may request medical documentation that supports the member's request for an accommodation. This often takes the form of a doctor's letter that provides details about the member's disability-related limitations and restrictions, and the ensuing accommodation needs. It is important to understand that members are *not* required to disclose diagnoses during the accommodation process.

### 5. Assist in obtaining outside funding where available.

Sometimes the government or another organization has funds available to assist with disability-related accommodations in housing. These may take the form of grants or other subsidies. Members should research any programs that may be available to assist the co-op with covering the costs of accommodation.



## 6. Work with the co-op to investigate possible solutions, and understand that everyone is working together to find a reasonable solution.

Members must be willing to co-operate, actively seek solutions, communicate clearly and remain open to reasonable accommodation solutions throughout the accommodation process.

## 7. Be flexible.

A member may think that there is only one solution that will meet their specific needs, but just as the co-op must explore alternatives, so must members be open to reasonable alternative suggestions and ideas proposed by the co-op.

***A member should remain flexible and open to any reasonable suggestions the co-op makes that would meet their needs.***

## Co-op by-laws/rules and policies may need to be revised

Human rights legislation takes precedence over most other laws, policies and rules. In some cases, co-op by-laws or rules may need to be revised to align with human rights principles. In cases of accommodation, a rule or policy might need to be applied differently to meet the needs of a member on the basis of a human rights ground, such as disability or spiritual or religious practices. Examples of by-laws that may need to be reviewed and/or revised include:

- Occupancy by-laws or rules that outline how many people can live in a unit
- Maintenance by-laws or rules that require members to paint their units or undertake other types of up keep
- Pet policies that may not permit members to have service animals.

### ***Example: Amir isn't following the Occupancy By-law when communicating with the co-op***

*A co-op's by-laws include a list of member responsibilities. All members are expected to communicate with staff about maintenance requests and other matters in writing. Amir, who has lived in the co-op for less than a year, keeps making requests over the phone or in person. His requests are being ignored because he is not making his requests in writing.*

*Eventually, with the support of a local organization, Amir informs the co-op that due to a learning disability, he is unable to communicate in writing. Citing his disability-related needs under human rights legislation, Amir asks the co-op to make an exception to its by-law that will allow him to send requests and other updates by phone as an accommodation for disability.*

*In this case, the co-op must accept Amir's request in good faith, and work with him to set up a procedure that meets his disability-related needs in order to ensure that his requests are processed by the co-op. The co-op could also consider amending its by-laws to establish that other forms of communication can be accommodated upon request.*



## Identical treatment does not mean human rights are upheld

It is important to keep in mind that promoting equality does not mean treating people identically. In the above example, Amir has the same right to timely repairs as his neighbours; just because he can't follow the same rules as other members should not lead to different treatment or results.

## Engage with human rights proactively

Co-ops have the freedom to proactively put policies and procedures in place to ensure the human rights of all members are respected and upheld.

- Engage in discussions about human rights and equality.
- Engage with older co-op members to support aging in place.

## ***Disclaimer***

This resource was created for CHF Canada by the Centre for Equality Rights in Accommodation (CERA). The content of this resource is for informational purposes only, and the information provided is not a substitute for legal advice. If your co-op requires legal advice please contact a lawyer. CHF Canada, CERA and the authors will not be held responsible for any loss or damage caused by reliance on any statement, made negligently or otherwise, contained in this resource.



## Resources

Province	Resources
Alberta	<p><b>1. Alberta Human Rights Act, RSA 2000, c A-25.5:</b>  <a href="http://www.canlii.org/en/ab/laws/stat/rsa-2000-c-a-25.5/latest/rsa-2000-c-a-25.5.html">http://www.canlii.org/en/ab/laws/stat/rsa-2000-c-a-25.5/latest/rsa-2000-c-a-25.5.html</a>            See sections 4 (discrimination respecting accommodation, inter alia), 5 (discrimination respecting tenancy). Section 11 provides for a “reasonable and justifiable” defence; that is, the duty to accommodate to the point of undue hardship.</p> <p><b>2. Alberta Human Rights Commission: Interpretive Bulletin on the Duty to Accommodate:</b>  <a href="https://www.albertahumanrights.ab.ca/Documents/Bull_DutytoAccom_web.pdf">https://www.albertahumanrights.ab.ca/Documents/Bull_DutytoAccom_web.pdf</a>            Interpretive bulletins illustrate the Commission’s interpretation of the <i>Alberta Human Rights Act</i>. This document illustrates the Commission’s view of the duty to accommodate at the time of publication (2010).</p> <p><b>3. Centre for Public Legal Education Alberta (CPLA), <i>Your Rights When Renting: Human Rights in Alberta</i>:</b>  <a href="http://www.cplea.ca/humanrightswwhenrenting/">http://www.cplea.ca/humanrightswwhenrenting/</a>            This is a plain-language resource to discrimination and the duty to accommodate under the Alberta Human Rights Act.</p>
British Columbia	<p><b>1. Human Rights Code, RSBC 1996, c 210:</b>  <a href="http://canlii.ca/t/843q">http://canlii.ca/t/843q</a>            See section 8 (discrimination in accommodation, inter alia), section 10 (discrimination in tenancy premises) for the scope of protection from discrimination in housing.</p> <p><b>2. BC Human Rights Tribunal, <i>Human Rights and Duties in Housing</i>:</b>  <a href="http://www.bchrt.bc.ca/human-rights-duties/housing/index.htm">http://www.bchrt.bc.ca/human-rights-duties/housing/index.htm</a>.            This resource affirms the duty to accommodate that comes from the case law.</p> <p><b>3. BC Human Rights Clinic, <i>The Duty to Accommodate</i>:</b>  <a href="http://www.bchrc.net/duty_to_accommodate">http://www.bchrc.net/duty_to_accommodate</a>            This resource explains what an accommodative process and outcome might look like in relation to the <i>BC Human Rights Code</i>.</p> <p><b>4. Tenant Resource &amp; Advisory Centre, <i>Human Rights</i>:</b>  <a href="http://tenants.bc.ca/human-rights/">http://tenants.bc.ca/human-rights/</a>            This is a plain language resource describing discrimination respecting tenancies and the duty to accommodate in the context of the <i>BC Human Rights Code</i>.</p>

## Resources

Province	Resources
<b>Manitoba</b>	<p><b>1. The Human Rights Code, CCSM c H175:</b>  <a href="http://canlii.ca/t/8gkc">http://canlii.ca/t/8gkc</a>            See section 16 for the scope and qualifications on the protection from discrimination in the rental of premises. Section 13 speaks to discrimination in accommodation, inter alia. See s. 12 for a codification of BFOR/Q. The definition of discrimination in the <i>Manitoba Human Rights Code</i> includes the failure to make reasonable accommodation, inter alia; see s. 9.</p> <p><b>2. The Manitoba Human Rights Commission – Guidelines on Reasonable Accommodation under <i>The Human Rights Code (Manitoba)</i>:</b>  <a href="http://www.manitobahumanrights.ca/v1/education-resources/resources/reasonable-accommodation.html">http://www.manitobahumanrights.ca/v1/education-resources/resources/reasonable-accommodation.html</a>            The Commission’s guidelines assist in the understanding of the Code and the regulations. This resource explains the duty to accommodate primarily in the employment context; however, as the resource points out, reasonable accommodation exists “for the needs of any person or group when those needs are based on a characteristic protected in The Code”.</p> <p><b>3. Barrier-Free Manitoba, The Legal and Human Rights of Manitobans with Disabilities:</b>  <a href="http://www.barrierfreemb.com/rights">http://www.barrierfreemb.com/rights</a>            This is a plain language resource describing the prohibition against discrimination and the duty to accommodate in the <i>Manitoba Human Rights Code</i>.</p>
<b>New Brunswick</b>	<p><b>1. New Brunswick Human Rights Act:</b>  <a href="https://www.canlii.org/en/nb/laws/stat/rsnb-2011-c-171/latest/rsnb-2011-c-171.html">https://www.canlii.org/en/nb/laws/stat/rsnb-2011-c-171/latest/rsnb-2011-c-171.html</a>            See section 5 of the NB Act for the scope of protection from discrimination in housing. Section 6 relates to discrimination respecting accommodation and services.</p> <p><b>2. The New Brunswick Human Rights Act Explained:</b>  <a href="http://www2.gnb.ca/content/gnb/en/departments/nbhrc/human-rights-act/act-explained.html">http://www2.gnb.ca/content/gnb/en/departments/nbhrc/human-rights-act/act-explained.html</a>            This resource explains that the bona fide qualification defence includes the test of undue hardship (see “Exceptions and limits”).</p>
<b>Newfoundland and Labrador</b>	<p><b>1. Human Rights Act, 2010, SNL 2010, c H-13.1:</b>  <a href="http://canlii.ca/t/8n8s">http://canlii.ca/t/8n8s</a>            See section 9 (prohibited grounds of discrimination), section 11 (discrimination respecting accommodation, inter alia), and section 12 (right to occupy commercial and dwelling units) for the scope of protection from discrimination in housing, including exceptions.</p>

## Resources

Province	Resources
<b>Newfoundland and Labrador</b>	<p><b>2. Employer’s Guide to the Human Rights Act:</b>  <a href="http://communitysector.nl.ca/sites/default/files/practical_resources/2012/handout__1_human_righths_commission_employer_guide.pdf">http://communitysector.nl.ca/sites/default/files/practical_resources/2012/handout__1_human_righths_commission_employer_guide.pdf</a>            This plain-language resource describes the duty to accommodate and undue hardship in the employment context. However, the general principles apply.</p>
<b>Nova Scotia</b>	<p><b>1. Human Rights Act, RSNS 1989, c 214:</b>  <a href="https://www.canlii.org/en/ns/laws/stat/rsns-1989-c-214/latest/rsns-1989-c-214.html">https://www.canlii.org/en/ns/laws/stat/rsns-1989-c-214/latest/rsns-1989-c-214.html</a>            See sections 4 (meaning of discrimination), 5 (prohibition of discrimination), 6 (exceptions to prohibition of discrimination), and 9 (bona fide qualification defense) for the scope of protection in the housing context.</p>
<b>Quebec</b>	<p><b>1. Quebec Charter of Human Rights and Freedoms:</b>  <a href="http://legisquebec.gouv.qc.ca/en/showdoc/cs/C-12">http://legisquebec.gouv.qc.ca/en/showdoc/cs/C-12</a>            Sections 12 through 14 describe the scope of protection from discrimination in housing. See also a publication by the Quebec Commission des droits de la personne et des droits de la jeunesse: <a href="http://www.cdpedj.qc.ca/Publications/Leaflet-Housing.pdf">http://www.cdpedj.qc.ca/Publications/Leaflet-Housing.pdf</a>.</p> <p>The duty to accommodate has been extended to apply to discrimination cases involving the Quebec Charter. In the case of <i>Chambly (Commission scolaire regionale c Bergevin)</i>, 1994 2 SCR 525, the court affirmed the duty to accommodate to the point of undue hardship in an employment context.</p>
<b>Ontario</b>	<p><b>1. Ontario Human Rights Code:</b>  <a href="https://www.canlii.org/en/on/laws/stat/rso-1990-c-h19/latest/rso-1990-c-h19.html">https://www.canlii.org/en/on/laws/stat/rso-1990-c-h19/latest/rso-1990-c-h19.html</a>            Sections 2(1) and 4 describe the scope of protection from discrimination in accommodation in co-ops. Sections 11 and 17 create an obligation to accommodate a person with a disability. Section 17 specifically provides for accommodation to the point of undue hardship.</p> <p><b>2. Ontario Human Rights Commission, Policy on ableism and discrimination based on disability:</b>  <a href="http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability">http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability</a>            OHRC policies provide the Commission’s interpretation of the Code at the time of publication and set standards for how service providers should act in order to comply with the Code. The Policy on ableism and discrimination based on disability (2016) updates the OHRC’s Policy and Guidelines on Disability and the Duty to Accommodate (2001) (accessible at: <a href="http://www.ohrc.on.ca/en/book/export/html/2461">http://www.ohrc.on.ca/en/book/export/html/2461</a>), and addresses both the duty to accommodate and the test of undue hardship.</p>



## Resources

Province	Resources
<b>Prince Edward Island</b>	<p><b>1. <i>Human Rights Act, RSPEI 1988, c H-12:</i></b>  <a href="https://www.canlii.org/en/pe/laws/stat/rspei-1988-c-h-12/latest/rspei-1988-c-h-12.html">https://www.canlii.org/en/pe/laws/stat/rspei-1988-c-h-12/latest/rspei-1988-c-h-12.html</a>            See sections 2 (discrimination in accommodation prohibited) and 3 (denial of occupancy rights prohibited) for the scope of protection in the housing context. Section 14 excepts a limitation based on a genuine qualification.</p> <p><b>2. <i>Duty to Accommodate and Undue Hardship:</i></b>  <a href="http://www.gov.pe.ca/humanrights/index.php3?number=1043553&amp;lang=E">http://www.gov.pe.ca/humanrights/index.php3?number=1043553&amp;lang=E</a>            This is a short, plain-language resource describing the duty to accommodate.</p> <p><b>3. <i>Government of PEI, They're Your Rights to Know: A Guide to the PEI Human Rights Act:</i></b>  <a href="http://www.gov.pe.ca/photos/original/peihrcrights.en.pdf">http://www.gov.pe.ca/photos/original/peihrcrights.en.pdf</a>            This resource describes the prohibition against discrimination and the duty to accommodate in relation to the <i>PEI Human Rights Act</i>.</p>
<b>Saskatchewan</b>	<p><b>1. <i>Saskatchewan Human Rights Code, SS 1979, c S-24.1:</i></b>  <a href="https://www.canlii.org/en/sk/laws/stat/ss-1979-c-s-24.1/latest/ss-1979-c-s-24.1.html">https://www.canlii.org/en/sk/laws/stat/ss-1979-c-s-24.1/latest/ss-1979-c-s-24.1.html</a>            See sections 2 and 11 for the scope of protection from discrimination in housing accommodation. "Undue hardship" is defined within the Code in s. 2(1)(q), and includes financial, purposive, and stakeholder considerations. The idea that a service provider need not accommodate beyond the point of undue hardship is codified in s. 31.2(b) and s. 31.3(1)(e).</p>
<b>Yukon</b>	<p><b>1. <i>Human Rights Act, RSY 2002, c 116:</i></b>  <a href="https://www.canlii.org/en/yk/laws/stat/rsy-2002-c-116/latest/rsy-2002-c-116.html">https://www.canlii.org/en/yk/laws/stat/rsy-2002-c-116/latest/rsy-2002-c-116.html</a>            See sections 7 and 9 for the scope of protection from discrimination in housing accommodation. Mental and physical disability are defined in s. 37. Section 8 codifies the duty to accommodate to the point of undue hardship in relation to special needs arising from physical disability. Section 10 provides a reasonable cause carve-out from discrimination in specific circumstances. Although the duty to accommodate in s. 8 is explicitly linked to physical disability, human rights cases in Canada have applied the duty to all prohibited grounds of discrimination, such as sex, religion or family status.</p> <p><b>2. <i>Duty to Accommodate – Impact on Employers and Service Providers:</i></b>  <a href="http://yhrc.yk.ca/sites/default/files/Duty%20to%20Accommodate.pdf">http://yhrc.yk.ca/sites/default/files/Duty%20to%20Accommodate.pdf</a>            This resource discusses the duty to accommodate in Yukon. It outlines factors that might be considered in the test for undue hardship as well as what the procedural aspect of accommodation might look like.</p>

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Nunavut	<p><b>1. <i>Human Rights Act, SNU 2003, c 12:</i></b>  <a href="https://www.canlii.org/en/nu/laws/stat/snu-2003-c-12/latest/">https://www.canlii.org/en/nu/laws/stat/snu-2003-c-12/latest/</a>            See sections 7 and 13 for the scope of protection from discrimination in housing accommodation. The duty to accommodate to the point of undue hardship can be found in s. 13(3). “Undue hardship” is defined in s. 1, and includes factors like: (a) health and safety; (b) disruption to the public; (c) effect on contractual obligations; (d) cost; and (e) business efficiency.</p>
Northwest Territories	<p><b>1. <i>Human Rights Act, SNWT 2002, c 18:</i></b>  <a href="https://www.canlii.org/en/nt/laws/stat/snwt-2002-c-18/latest/snwt-2002-c-18.html">https://www.canlii.org/en/nt/laws/stat/snwt-2002-c-18/latest/snwt-2002-c-18.html</a>            See sections 1 (definitions), 5 (prohibited grounds of discrimination), and 12 (discrimination respecting tenancy). Section 12(2) codifies the duty to accommodate to the point of undue hardship.</p>
Other	<p><b>1. <i>Canadian Civil Liberties Association (CCLA), Useful Links and Resources Related to Discrimination on the Basis of Disability or Mental Health:</i></b>  <a href="https://ccla.org/useful-links-and-resources-related-to-discrimination-on-the-basis-of-disability-or-mental-health/">https://ccla.org/useful-links-and-resources-related-to-discrimination-on-the-basis-of-disability-or-mental-health/</a>            This CCLA resource includes a host of links to understanding human rights across Canada, particularly in relation to the prohibition against discrimination and the duty to accommodate.</p> <p><b>2. <i>An Examination of the Duty to Accommodate in the Human Rights Context:</i></b>  <a href="http://www.lop.parl.gc.ca/content/lop/researchpublications/2012-01-e.pdf">http://www.lop.parl.gc.ca/content/lop/researchpublications/2012-01-e.pdf</a>            This paper describes the legal framework of the duty to accommodate across Canada, including the common law bases for the duty to accommodate.</p>



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