



3.1 Employers' Legal Responsibilities



Several key points regarding the legal obligations of Canadian employers:

- A person with a disability is not required to tell an employer about a disability if they can do the work required without accommodation, and the disability does not pose a danger at work to the individual or others.
- An employer has an obligation to accommodate all disabilities up to the point of “undue hardship” – this includes visible and non-visible disabilities.
- An employer has the right to ask questions about the job function, and the employee’s abilities to do these.
- The employer does not have the right to ask about the name of a disability or the medical diagnosis.
- Any information the person with a disability shares is confidential and protected.

Note: The rules and employment standards employers must adhere to are the exact same with regard to employees with disabilities as they are for non-disabled employees – including standards around hiring and firing.

Each jurisdiction (each province/territory and federal) in Canada has multiple **sources of guidance, including:**

- Employment legislation, which provides for basic workplace rights.
- Human rights legislation, which is designed to combat discrimination.
- Workplace safety/workers’ compensation legislation, which provides for occupational health and safety and workplace disability insurance.

It is important to review the laws applicable to an employer’s specific region. Although provincial laws vary, there are core fundamental concepts that can generally be found, including:

- Everyone should be treated respectfully and fairly, regardless of a disability.
- Accommodations should be provided to those who require them, up to the point of “undue hardship.”

- Accommodations may be needed at any stage in the employment relationship, including during recruitment.
- Occupational or job requirements should be reasonable and meaningful, rather than arbitrary.
- Permanently injured workers have a right to return to work.

Take the Challenge!

True or False

The “duty to accommodate” is a legal obligation for all Canadian employers.

True. It is part of the *Employment Equity Act* and the *Canadian Human Rights Act*.

An employer should provide accommodations at any stage in the employment relationship, including during recruitment.

True. All employers have a legal responsibility to accommodate applicants during an interview.

Source:

¹Canadian Human Rights Commission, *A Place for All: A Guide to Creating an Inclusive Workplace*, ©2006.

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