

Human Rights and Equity: Frequently Asked Questions

Creed and the Accommodation of Religious Observances

This document provides ONA members with general answers to commonly asked questions about the employer's duty to accommodate an employee's creed. Specific advice should be sought from your Bargaining Unit Human Rights and Equity Representative, Bargaining Unit President or Labour Relations Officer.

What is a "creed"?

The Ontario *Human Rights Code* does not define creed. However, creed has often been referred to as religious beliefs and practices or non-religious belief systems that have a connection to spirituality substantially influence a person's identity.

A wide breadth of belief systems have been found to be a creed under the *Code*. The person's beliefs must only be sincerely held and connected to spirituality. There is no requirement that an individual's creed be part of an established religion, or that their particular religious practice correspond with other members of the religion. Individuals are entitled to express their religion and spirituality in the way that is most meaningful to them.

Creed does not include practices or observances that are hateful, incite violence against individuals, or contravene criminal law. Additionally, political opinion or belief has not been found to be a creed.

When does the employer have a duty to accommodate an employee's creed?

Employers have a legal duty to accommodate an employee's sincerely held creed beliefs and practices. The goal of accommodation is to ensure that an employee does not need to choose between observing his/her religion or creed and his/her employment.

Organizations should accept in good faith that a person is practicing a creed unless there is sufficient reason to believe otherwise. The employer should only request as much information as is necessary to confirm that the belief is sincerely held, and that should be limited to circumstances where there is a legitimate reason to question the sincerity.

It is not necessary for someone to show that the belief, practice or observance is an essential element of creed; required as valid by religious officials; or consistent with the beliefs, practices or observances of others of the same faith.

Are there limits on the employer's duty to accommodate?

Yes. The duty to accommodate requires the Employer to provide all accommodations, short of undue hardship. If an accommodation would cause undue hardship to the Employer, it is not required.

In providing an accommodation, the employer must obtain all relevant information about the employee's situation and then seriously consider how it can accommodate. As with other types of accommodations, the test for undue hardship is based on a number of factors, including costs, health and safety requirements, the size of the employer's operation, interchangeability of the workforce, collective agreement provisions, and the impact on the rights of other employees.

Where an employer states that it is unable to accommodate an employee because of undue hardship, the employee should obey and then grieve.

What are some examples of requests for creed accommodation?

- A religious Christian requires Thursdays and Sundays off of work to attend church.
- A religious Muslim requires time to pray five times per day.
- An Indigenous man requires an exemption to a workplace policy prohibiting long hair.

What is the process for requesting accommodation?

- Contact your ONA representative as soon as possible for assistance and representation.
- Check whether the employer has a policy containing a process for accommodation requests.
- Provide a request to the employer, preferably in writing, identifying your creed and the conflicting work requirement. Your ONA representative can help identify any additional information or documentation that should be provided to support the request.
- Grievances may be filed on behalf of an ONA member where the employer fails to provide the proper accommodation.

Where can I get more information and resources that can help?

- ONA presentation, "Creed and the Accommodation of Religious Observances" (found on ONA's website at www.ona.org under "Human Rights and Equity/Teleconnects")
- Policy on "Preventing Discrimination Based on Creed" (<http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed>)
- ONA's *Human Rights and Equity Guide* (found on ONA's website under "Human Rights and Equity" tab)
- Employer policies dealing with discrimination and workplace accommodation
- ONA's hospital central Collective Agreement (found on ONA's website under the "Contacts")
- ONA's eLearning module "Duty to Accommodate" (video lecturette)
- ONA's Human Rights and Equity Team's confidential voicemail (800)-387-5580 ext. 7768

Contact your Bargaining Unit Human Rights and Equity Representative, Bargaining Unit President or Labour Relations Officer for more information, advice and support.