



Session #110:
**Human Resources and
Human Rights**

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HUMAN RIGHTS AND THE DUTY TO ACCOMMODATE

What are an organization's obligations when dealing with an accommodation request?

- accept requests for accommodation in good faith unless there are legitimate reasons for acting otherwise
- request information to verify the need for accommodation if required
- request the information required to consider possible methods of accommodation
- obtain expert advice when required
- ensure alternate approaches to accommodation are investigated and assessed—all reasonable possible solutions should be examined
- grant accommodation requests in a timely manner up to the point of undue hardship
- maintain confidentiality
- maintain a record of accommodation requests and actions taken

What are an employee's obligations when making a request for accommodation?

- make needs known, preferably in writing
- provide necessary information, in some cases sufficient evidence to verify the need for accommodation
- provide information to understand needs and restrictions
- assist in the search for accommodation
- participate in discussions about solutions
- accept and cooperate in the implementation of reasonable accommodation

Tips for Organizations dealing with accommodation requests:

- the process followed in considering accommodation requests is very important
- maintain an open mind, do not dismiss an accommodation request without any process because it is unusual
- to avoid claims of untimely accommodation: i) immediately assess requests for accommodation, determine what information is required, ii) seek the necessary information from the employee
- keep the information you receive to support an accommodation request confidential
- inexperience will not excuse a failure to accommodate
- explore reasonable, creative and flexible alternatives – be “innovative yet practical”
- rely on concrete evidence, not on impressionistic evidence or speculation

Case Studies

1. You are the Property Manager at Eastside Non-Profit Homes. You supervise the maintenance staff. You are having some problems with Carl, one of the maintenance employees. He is often late in the morning, he sometimes cannot be found onsite and he often does not complete work orders on time. On several occasions you have smelled alcohol on his breath. At a board meeting, one of the directors advises the board that he has seen Carl drinking at the local pub at lunchtime and another director says that Carl had done shoddy work one day when he was drunk at work. The board decides that they cannot have a drunk on staff and tells you they want you set up a meeting with Carl so that they can fire him immediately. What do you do?
2. You are on the board of Westside Non-Profit Homes. Joe your superintendent has worked for Westside for 35 years and he is now in his late 60s. His children grew up at Westside and he has close friendships with many community members. Joe is generally a good employee but you have noticed in recent years that the quality of his work has been slipping. For example, he sometimes does not follow up on late rental payments promptly and common areas are not cleaned as thoroughly as before. The concerns are not that significant and if you knew that he was planning to retire within the next couple of years you would prefer not to closely manage his performance or to terminate his employment. What do you do?
3. Jane is an administrative employee who is a poor performer. Prior to taking any steps to address any of the performance issues with her, she advises that she is pregnant and will take a pregnancy and parental leave. You hire a replacement for the leave. You really like the replacement. The replacement is much better at the job than Jane. When Jane advises that she is ready to come back, a number of board members state that they would like to terminate her for poor performance and keep the replacement. Do you see any issue?
4. Sam is a maintenance employee who was involved in a car accident outside of work. He has been on leave for 2.5 years now. You have had limited contact with Sam but know that he was on long term disability benefits at some point. How do you manage this situation?
5. Cami has a disability and she is working modified duties. She is not able to lift more than 10 pounds so other employees are required to assist her with some of her heavy duties. One of the tasks that everyone dislikes is putting the garbage in the bin outside. The employees used to take turns but now that Cami is not able to lift heavy objects, she is not doing this task anymore. Some employees resent that they are required to assist Cami and tell you that they feel Cami is not doing her fair share. What do you do?

6. Your non-profit is facing serious difficulties. As a board, you decide that you are going to need to meet regularly to work through a number of challenging issues. You decide that you need to meet once per week to address urgent issues. You decide that at the end of each week, you will pick the meeting day for the following week based on what is best for the majority of board members. You inform your staff person that you need her to be present at the meetings which will be once per week from 7 to 9 pm on a date selected by the board. The staff member says this will be a problem for her as she has 3 young children who she looks after in the evening. She does not want to work more than 1 night per month for board meetings. She says weekly evening meetings are a problem. She says board members should make themselves available during business hours. Many board members work during business hours. What do you do?