

General principles for accommodating EMPLOYEES WITH DISABILITIES



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As an adjunct to the Special Report in this issue, I thought it opportune to review the issue the need for developing and implementing policies and procedures for accommodating employees with disabilities.

The Manitoba *Human Rights Code* protects Manitobans from discrimination on the basis of a number of grounds, including physical or mental disability in the workplace. Further information can be obtained from the Manitoba Human Rights Commission website (www.gov.mb.ca/hrc/).

'Discrimination' is broadly interpreted and can mean any different treatment, as compared to other employees who do not share the disability. Discrimination includes a failure to make arrangements to reasonably accommodate an employee's disability.

As employers, municipalities must consider whether any employee may be under a disability, regardless of its cause or visibility. Creation of a disability policy with accommodation features is recommended. Some physical disabilities may require medical treatment, medication or the use of aids such as a wheelchair. Mental disabilities may be

harder to perceive and include depression, addiction to alcohol, drugs, or gambling, or other mental illness. Disabilities can affect mobility, communication, learning, and coping abilities in the workplace.

When a disability interferes with the work to be done, it is often possible to remove or reduce the handicap by making adjustments in the work environment.



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The concept of reasonable accommodation for all particular circumstances cannot be covered in an article of this size. However, municipalities must implement an adequate process, and make sufficient efforts to alter the workplace or job description or both to accommodate a disabled employee, even if there is increased expense associated with the process and those changes.

Here are a few examples of reasonable accommodation of a disability:

- Construction of a ramp, widening a doorway and construction of a wheelchair accessible washroom facility for an employee who becomes wheelchair bound;
- Modification of work equipment;
- Addition of safety or preventative measures and equipment;
- Altering existing practices or procedures for tasks, or adopting new ones;
- Time off or a flexible schedule for medical or mental treatments;
- Reasonable consideration of physician-directed absences of leaves for clinical depression or other mental conditions; and
- For a position requiring occasional travel, the re-assignment of work to minimize travel demands for an employee who becomes unable to obtain a driver's licence, due to epilepsy or low-vision.

A municipality is obliged by the *Code* to seriously consider ways to accommodate or to adjust a workplace, procedure, policy or service for a disabled employee.

The onus is on the municipality to show that reasonable efforts at accommodation have been made. Accommodation which creates an undue hardship for the business, because of costs or other factors, is not necessary but it is up to the municipality to establish that it made all reasonable efforts and to provide actual evidence that the accommodation was unduly difficult.

Discrimination and failure to accommodate a disabled employee can result in an embarrassing and potentially expensive complaint to the Human Rights Commission. **LE**

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