



# The Conciliator

UNIFOR Local594 | Canada

204 Hodsman Road, Regina, SK.  
www.unifor594.com

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## Duty to Accommodate

A joint committee comprising of union representatives and management work together to accommodate employees as required was initially established some time ago. **Letter of Understanding #35** clearly outlines the process. Discussions by the Accommodation Committee have shown there is a need to better communicate what accommodation is and when it may be required.

The duty to accommodate is usually thought of in terms of disability. A disability is defined as a physical or mental condition that is both permanent, ongoing, episodic or of some persistence, and a substantial or significant limit on that person's ability to carry out some of life's important functions or activities, such as employment. Disabilities include both visible disabilities, such as the need for wheelchairs, and invisible disabilities, such as cognitive, behavioural and learning disabilities.

The Duty to accommodate also relates to a broad range of individual differences among workers. Some other examples of accommodation may be but not limited to:

### ***i) Modified physical and ergonomic conditions of the workplace***

To perform their duties, employees with disabilities sometimes require changes to their physical environment.

### ***ii) Modified terms and conditions of employment***

The duty to accommodate may require modifications in job duties if, for example, a person's disability or religion prevents them from carrying out certain aspects of the job. Some tasks may be incidental and rarely required. Other tasks can be delegated to other employees, perhaps in exchange for duties or tasks that the person requesting accommodation can perform. Alternatively, the employee could be excused from those tasks.

### ***iii) Temporary assignments***

Temporary reassignment can be a form of accommodation. This may involve temporary light duties. For example, an employee returning to work after back surgery may require a six-month period of modified or light duties until their back is strong enough to carry out the full functions of the job.

In other cases, accommodation may require a temporary transfer to a different position. For example, a pregnant employee may be reassigned to eliminate exposure to chemicals until her baby is born.

### ***iv) Leaves of absence***

Sometimes an employee requires a temporary leave of absence to accommodate a disability-related illness or family emergencies. Generally, an employer is expected to accommodate such requests and to hold the position until the employee returns.

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## Duty to Accommodate

All reasons for accommodation need to be recognized. Individuals or groups who are protected under human rights legislation have the right to accommodation on the following grounds: Race or colour, Religion or creed, Age, Sex or gender, Marital Status, Physical\Non-physical disability, Sexual orientation, National or ethnic origin, Family status, Ancestry or place of origin and Addictions such as alcohol or drugs.

Unions play a pivotal role in the accommodation process. While the employer has the primary duty to provide reasonable accommodation, in some circumstances the union shares that responsibility. The responsibilities of the union representative include:

- to insist that the employer fulfills its duty to design workplace requirements and standards so that they do not discriminate;
- to model a problem-solving approach to accommodation;
- to represent the needs of the worker for accommodation;
- to collaborate with the worker and the employer in accommodating the worker;
- to respond to employer accommodation proposals;
- to follow-up after the accommodation is implemented to assess whether it is working and to help address any associated issues that may surface; and
- to ensure that the collective agreement does not discriminate during the collective bargaining process and during the life of the collective agreement,

Recognizing the need for accommodation can be difficult. Some signs that an employee may require accommodation include a sudden drop in attendance, a rise in tardiness, and changes in behaviour or unusually poor work performance. The employee may also start exhibiting unsafe work practices.

Employees are often reluctant to inform an employer that they require accommodation, because they do not feel comfortable asking the employer for help. In some situations, employees fear that telling the employer about a problem or asking for accommodation will have negative consequences, such as losing their position, being refused future promotions, being demoted, receiving fewer hours or being humiliated by their supervisor or peers. In other situations, employees may be embarrassed to admit that they require accommodation because of the stigma and indignity associated with disabilities concerning mental illness or substance addictions. Sometimes, the very nature of these disabilities means that employees are unable to ask for accommodation.

If you think you, a union brother or sister, may need accommodation of any type, please speak up. Contact an accommodation committee member, shop steward or any member of the union executive for advice and to ensure rights are protected. All discussions are confidential.

Denise Hersikorn (Lab) [dhersikorn@sasktel.net](mailto:dhersikorn@sasktel.net)  
 Shaun Jenkins (EM/PF) [shaun-milburn@yahoo.ca](mailto:shaun-milburn@yahoo.ca)  
 Sharlene Stanley (PSM) [sharstanley@sasktel.net](mailto:sharstanley@sasktel.net)

In Solidarity,  
 Sharlene Stanley

Information for this article was gathered from:

Canadian Human Rights Commission's document entitled "Duty to Accommodate – Frequently Asked Questions". Read this document online [DUTY TO ACCOMMODATE - FREQUENTLY ASKED QUESTIONS & ANSWERS](#)  
 Public Service Alliance of Canada's document entitled "Duty to Accommodate Guide". Read this document online [DUTY TO ACCOMMODATE GUIDE](#)

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## Just Because it CLACs Like a Duck...

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Not all unions are what they appear to be. Or what they claim. A case in point involves the Christian Labour Association of Canada (CLAC). Although they call themselves a union, they really have very little in common with other organized labour movements.

CLAC is in reality an association and not a union at all, but has spent the past 50 years trying to get recognized as a “union” by provincial and federal labour relations boards. Formed in 1952 by Dutch immigrants affiliated with the Christian Reformed Church, CLAC rejects basic union principles in favour of a more business-oriented “unionism” that sacrifices the best interests of its members. Employers are increasingly favouring CLAC in order to keep their workplaces union-free, leaving employees with little input in to their working conditions. Although they are not officially or legally affiliated with any religious organizations, CLAC maintains close ties with the Canadian Reformed Church and reform church-inspired organizations.

CLAC’s ideals are very much in line with conservative and business philosophy. Their research arm, the Work Research Foundation (WRF) lobbies governments on issues related to labour relations, and supports policies that harm the interests of workers. The WRF and CLAC support back-to-work legislation, oppose anti-scab legislation, and promote union busting through their support of open shops. In fact, CLAC also supports getting rid of the Rand Formula, whereby once a union has 51 percent of the employees support all employees are represented by the union.

Whereas members of real unions vote to ratify collective agreements and have significant input into the bargaining process, members of CLAC do not necessarily get to vote. CLAC staff have the authority to “conclude, execute or administer collective agreements” without having to go to a membership vote. Furthermore, instead of open and transparent organizing drives, 25% to 40% of CLAC’s recruitments are “voluntary recognitions,” which are basically behind closed door deals between employers and CLAC staff. A recent trend has seen anti-union businesses (such as Save On Foods in BC) consummating deals with CLAC in order to keep real unions out of their workplaces.

If all of this is not bad enough, CLAC also negotiates substandard agreements that are below industry standards in all areas, including wages, benefits, and overtime and vacation pay. CLAC’s primary agenda seems to be to undercut the work of legitimate, democratic and representative unions and to roll back the clock on gains made over decades. In the words of the Canadian Labour Congress, “Real trade unions pride themselves on the fact that union democracy is not a hollow concept, but a living reality that members experience and practice at the work-site, union office and at the convention floor.” Beware of phony unions that claim to have the best interests of working people at heart. Because some of them don’t.

Reprinted with permission from  
The Manitoba Government and General Employees’ Union Website, January 2009

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## Editorial

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As a long term employee I have seen many changes over the years. Our little refinery has grown from 400 to over 800 unionized members. We have added two new sections, a waste water recovery unit and added to or expanded several of our existing units. With all this expansion came some major changes in the way we do business and how we deal with the company.

At present we have roughly 49 active grievances. There are more than 28 that are either going to or being considered for arbitration.

What happened to sitting down and talking? As a former shop steward I participated in grievance meetings all the time. As the former Chief Shop Steward, I filed many grievances, but not nearly the volume our union is seeing nowadays; and very few of those every went to arbitration. Why is that?

It seems in this day and age its easier to just disagree and have a “room full of strangers” resolve our differences. When do we get back to basics and sit down as a group of fellow employees and work towards making our refinery a better place? We used to do that! Why does everything have to be an argument?

I'm reminiscing here, but it wasn't so long ago when the we used “ Communication, Teamwork and Trust” to govern the way we worked together, Now we use “Reliability, Safety and Sustainability” to work together. If we are all in this together why do I feel more and more than we, and I'm not just talking about the in scope employees, are just a number on a sheet. We used to take ownership and care about the job but this is slowly being beaten out of us. I'm so tired of hearing about the bottom line and that the way we work now is “unsustainable”. Lets just sit down and start working together again. It worked once... it can work again!

In Solidarity,  
Daren Drummond, Section 3 Process Operator

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### Last Laugh

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"As a part of a cost-cutting experiment all of our safety measures will be replaced with these good luck charms."

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### Stay Connected

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