



OSSTF Toronto

Introduction to *Medical Accommodations*

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- Legal foundations
- Learn about specific clauses in the collective agreement
- Understand the roles of all parties in the process
- Explore examples and process of accommodation

The Legal Foundation

Ontario Human Rights Code (OHRC): Prohibits discrimination based on "disability" (which includes physical, mental, and medical conditions).

Specific Clauses in the Collective Agreement

OHRC Compliance (L50.1): The Board and Union shall comply with the Ontario Human Rights Code.

Medical Documentation (C9.1(g)(ii)): The employee provides information on: functional limitations, restrictions, and disability-related needs, specifically omitting a diagnosis, using the Functional Ability Form

LETTER OF UNDERSTANDING RE: Accommodation & Return to Work

C9.1 (g) (ii)

- ii. The Board may require information to assess whether an employee is able to return to work and perform the essential duties of their position. Where this is required, such information shall include their limitations, restrictions and disability related needs to assess workplace accommodation as necessary (omitting a diagnosis) and will be collected using the form as per Appendix B. An alternate form may be used where one is mutually developed and agreed upon at the local level.



Functional Abilities Form - Secondary Teaching

<i>Employee Group:</i>	<i>Requested By:</i>
<i>WSIB Claim:</i> <input type="checkbox"/> <i>Yes</i> <input type="checkbox"/> <i>No</i>	<i>WSIB Claim Number:</i>

To the Employee: The purpose for this form is to provide the Board with information to assess whether you are able to perform the essential duties of your position, and understand your restrictions and/or limitations to assess workplace accommodation if necessary.

Employee's Consent: I authorize the Health Professional involved with my treatment to provide to my employer this form when complete. This form contains information about any medical limitations/restrictions affecting my ability to return to work or perform my assigned duties.

Employee Name: <i>(Please print)</i>	Employee Signature:
Employee ID:	Telephone No:
Employee Address:	Work Location:

1: Health Care Professional: The following information should be completed by the Health Care Professional

Please check one:

Patient is capable of returning to work with no restrictions.

Patient is capable of returning to work with restrictions. Complete section 2 (A&B) & 3

I have reviewed sections 2 (A&B) and have determined that the Patient is totally disabled and is unable to return to work at this time. Complete sections 3 and 4. Should the absence continue, updated medical information will next be requested after the date of the follow up appointment indicated in section 4.

First Day of Absence:	General Nature of Illness <i>(please do not include diagnosis):</i>
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Date of Assessment:
dd mm yyyy

2A: Health Care Professional to complete. Please outline your patient's abilities and/or restriction based on your objective medical findings.

PHYSICAL (if applicable)

<p>Walking:</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 100 metres <input type="checkbox"/> 100 – 200 metres <input type="checkbox"/> Other (please specify)	<p>Standing:</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 15 minutes <input type="checkbox"/> 15 – 30 minutes <input type="checkbox"/> Other (please specify)	<p>Sitting:</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 30 minutes <input type="checkbox"/> 30 minutes – 1 hour <input type="checkbox"/> Other (please specify)	<p>Lifting from floor to waist</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 5 kilograms <input type="checkbox"/> 5 – 10 kilograms <input type="checkbox"/> Other (please specify)
<p>Lifting from Waist to Shoulder:</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 5 kilograms <input type="checkbox"/> 5 – 10 kilograms <input type="checkbox"/> Other (please specify)	<p>Stair Climbing</p> <input type="checkbox"/> Full Abilities <input type="checkbox"/> Up to 5 steps <input type="checkbox"/> 6 – 12 steps <input type="checkbox"/> Other (please specify)	<p>Use of hand(s)</p> <p>Left Hand</p> <input type="checkbox"/> Gripping <input type="checkbox"/> Pinching <input type="checkbox"/> Other (please specify)	<p>Right Hand</p> <input type="checkbox"/> Gripping <input type="checkbox"/> Pinching <input type="checkbox"/> Other (please specify)



3: Health Care Professional to complete.	
From the date of this assessment, the above will apply for approximately: <input type="checkbox"/> 6-10 days <input type="checkbox"/> 11-15 days <input type="checkbox"/> 16-25 days <input type="checkbox"/> 26 + days	Have you discussed return to work with your patient? <input type="checkbox"/> Yes <input type="checkbox"/> No
Recommendations for work hours and start date (if applicable): <input type="checkbox"/> Regular full time hours <input type="checkbox"/> Modified hours <input type="checkbox"/> Graduated hours	Start Date: dd mm yyyy
Is patient on active treatment plan?: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has a referral to another Health Care Professional been made? <input type="checkbox"/> Yes (optional – please specify): <input type="checkbox"/> No	
If a referral has been made, will you continue to be the patient's primary Health Care Provider? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
4: Recommended date of next appointment to review Abilities and/or Restrictions: dd mm yyyy	
Completing Health Care Professional Name: (Please Print)	
Date:	
Telephone Number:	
Fax Number:	
Signature:	

Note for Health Care Professional: Please complete the Form and forward to the following address:
Health Wellness and Abilities Office, 5050 Yonge Street, 2nd Floor, Toronto, Ontario, M2N 5N8,
send by confidential fax to 416-393-8533 or by email to dcmsubmissions@tdsb.on.ca

The Accommodation Triad

A Shared Responsibility

1. The Worker

Initiates the request and provides medical documentation on functional limitations (medical restrictions).
Cooperates in finding a reasonable solution.

2. The Employer

Has the duty to investigate the request and accommodate up to undue hardship while maintaining confidentiality.

3. The Union

Advocates for the worker, ensures the employer meets its duties, and assists in finding an appropriate solution

The Worker's Role

Disclose Needs

Inform the employer or union of the need for accommodation based on a protected ground (OHRC).

Provide Information

Supply medical information on functional limitations and restrictions using a Functional Abilities Form.

Cooperate

Actively participate in finding a reasonable solution and clarify insufficient medical documentation as needed .

The Employer's Role

Accept requests in good faith and take them seriously.

Actively investigate solutions

Develop a written Accommodation Plan in consultation with the employee and Union, and implement it in a timely manner.

Maintain strict confidentiality of all medical information.

The Union's Role

- **Advocacy & Representation:** Represent the worker's interests and ensure the employer meets their legal duties.
- **Duty to Accommodate:** The union also has a duty. It cannot block a reasonable accommodation, even if it conflicts with the collective agreement unless it creates undue hardship.

Examples of Accommodation

Modified Duties & Equipments

Adjusting non-essential tasks, bundling duties differently, or providing assistive devices like ergonomic chairs, screen readers, or voice-activated software.

Modified Schedule & Location

Flexible hours, part-time work, more frequent breaks, the option for remote work, or a gradual return-to-work plan after an absence.

The Accommodation Process

1. Request

Worker discloses need.

2. Information

Worker provides limitations (C9.1(g)(ii)).

3. Exploration

All parties explore options.

4. Written Plan

Employer develops formal plan

5. Monitor

Follow up and adjust as needed.



Case Study: The Case of Ms. Anya Sharma

Ms. Anya Sharma, a veteran secondary school teacher (15 years of service) qualified in Drama, Physical Education, and Guidance, has been experiencing increased absenteeism due to a recently diagnosed chronic medical condition causing severe fatigue and joint pain.

To manage her health, Ms. Sharma submitted a typed doctor's note to her principal requesting several accommodations:

- A modified timetable limiting her to a maximum of two hours of consecutive teaching daily.
- A timetable fully in Guidance.
- Access to a quiet, low-stimulation environment during non-teaching times.
- A transfer to a school no farther than 15 KM from her home.

Principal Chen is concerned about Ms. Sharma's illness affecting student learning and staffing. He finds her requested modified schedule "unprecedented" and difficult to implement, asking for detailed medical information, including diagnosis, quoting clause C9.1(g)(ii) of the Collective Agreement, and clarification on the commute restriction. Ms. Sharma is stressed about job security, the principal's demands, and student disruption. She has approached you as the Branch President for guidance and support.

Any concerns with the principal's response to Ms. Shama's request?

As Branch president, what advice would you give Ms. Sharma?

Ontario Secondary School Teachers' Federation vs. Toronto District School Board

A teacher with multiple chronic disabilities moved from Toronto to Markham.

The new commute became 35 to 110 minutes each way, which they claimed aggravated their symptoms.

They requested an expedited “accommodation transfer” to a school closer to her home.

The Toronto District School Board (TDSB) refused the transfer, and the union grieved, alleging discrimination.

Decision and analysis

- The Union argued that the teacher had been subject to discrimination on the basis of disability, contrary to the *Ontario Human Rights Code*

In denying that it had discriminated against the teacher, the Board argued that:

- An employer does not have control over an employee's commute and, therefore, a commute cannot be a source of discrimination;
- In the alternative, a commute can only be a source of discrimination if the employer took an action to make it so. In this case, the teacher's commute was caused by her own actions through her move to Markham;
- In any event, the adverse effects in this case were the product of the teacher's refusal to adjust their commute, and not a product of her disability.

The Core Legal Questions

1. Can a Commute Be Discrimination?

The Board argued that a commute is an employee's personal choice and outside the employer's control. Therefore, it cannot be a source of discrimination.

2. Does the Employee's Action Matter?

The Board argued that since the *teacher* chose to move (it was not an employer action), the Board had no duty to accommodate the consequences of that choice.

Arbitrator's Legal Finding: A New Standard

YES.

A Commute Can Be Discrimination.

- ✓ The arbitrator **rejected** the Board's core legal arguments
- ✓ An employer's **control over work location and timing** makes the commute a factor in employment.
- ✓ An employee's choice to move does not automatically negate the duty to accommodate. It is simply part of the facts.

Failure to "Self-Accommodate"

The teacher refused reasonable alternatives to mitigate the commute, such as taking the 407 toll highway or adjusting their schedule to avoid traffic.

Lack of Cooperation

The teacher adopted an "all or nothing" stance, demanding only a transfer. They were uncooperative in exploring any other reasonable solutions offered by the Board.

Questions?