



CUPE 1858 Newsletter

Duty to Accommodate (DTA)

By Rolanda Murray

What the employer has to say about Accommodation...

Accommodation is the adjustment of a person's workplace, responsibilities, or job assignment to accommodate a legitimate need connected to a ground protected under Human Rights law.

Accommodations can include changes to work location or hours of work, provision of specialized equipment, modified duties, or other needs that arise related to a person's religion, gender, disability, family status or other human rights protected ground.

What responsibilities do I have as an employee when requesting an accommodation?

Under the VIU Employment Accommodation Procedure you are responsible for:

- Providing the university with full information on your needs and the cause(s) of the needs
- Providing proof of condition or circumstance
- Cooperating with any reasonable requests for assessments (usually in relation to disability related accommodations)
- Collaborating in the development of the accommodation plan
- Participating in any evaluation of the accommodation.

Determining the actual manner in which you may be accommodated will depend on your needs, the needs of the department and institution. If your request is relatively simple chances are that an accommodation plan can be developed between you and your dean, director or regional campus principal. If your needs are more complex others may be involved, such as a union steward, a human resources advisor, a representative from Health & Safety Services or your supervisor.

You should submit the completed Employee Request for Accommodation form to your dean, director or regional campus principal and arrange a meeting to discuss your request. Also send a copy of the completed form to the Human Resources department and keep a copy for your own records.

What the union has to say about Accommodation...

Involve the union early!

The union can help you work with the employer to find an appropriate accommodation. We have stewards with specialized training who provide confidential DTA assistance.

The most important thing to know that the employer doesn't tell you is that they have a duty to accommodate "up to the point of undue hardship". This is really important and here is a little bit about what that means....

What is undue hardship?

The duty to accommodate has limits. Sometimes accommodation is not possible because it would cause an organization "undue hardship." Under the Canadian Human Rights Act, an employer or service provider can claim undue hardship when adjustments to a policy, practice, by-law or building would cost too much, or create risks to health or safety. It is not enough to claim undue hardship based on an assumption or opinion, or by simply saying there is some cost. To prove undue hardship, the employer will have to provide evidence as to the nature and extent of the hardship. (<http://www.chrc-ccdp.ca/eng/content/duty-accommodate>)

The financial costs of any accommodation are assessed in the context of the overall budget and operations of the employer. VIU has a consolidated budget of \$139.3 million for the 2016-2017 fiscal year, so the point of undue hardship for VIU is very high.

Here is some other material on Duty to Accommodate:

[The duty to accommodate: How far does an employer have to go?](#)

[What is Duty to Accommodate?](#)

Here is the link to the VIU form for [Employee Request for Accommodation](#)