

**MANITOBA HUMAN RIGHTS COMMISSION
POLICY AND PROCEDURES MANUAL**

POLICY # L-10
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SECTION: Legislation

Effective Date: May 21, 2003

SUBJECT: REASONABLE ACCOMMODATION OF RELIGIOUS BELIEF

This policy is intended to assist in the interpretation of *The Human Rights Code*. Where there is any conflict between this policy and *The Code*, *The Code* prevails.

The Code prohibits unreasonable discrimination on the basis of religion in all of the protected activities under *The Code*, including employment (s.14) and services (s.13).

As set out in Policy 1-1-5-1, Section 9(2)(d) “religion or creed, or religious belief, religious association or religious activity” will be interpreted to include both the presence and absence of a “religion or creed, or religious belief, religious association or religious activity”.

In determining whether reasonable accommodation of an individual’s religious belief has occurred, the Commission will consider the circumstances of each case. Factors for consideration will include the procedure used by the respondent in assessing whether accommodation can be made. The Commission will examine the steps taken by the respondent to search for, and consider, options for accommodation.

Some questions that the Commission may consider are:

- 1) Were alternative approaches to accommodation that did not have a discriminatory effect explored?
- 2) If alternative approaches were investigated and could have been implemented without undue hardship, why were they not implemented?
- 3) Was the complainant provided with the opportunity to participate in the process of identifying and assessing possible accommodations?
- 4) Did a complainant requesting religious accommodation provide reasonable notice of the need for such accommodation? Was the notice period required by the employer, service provider, or other respondent party, reasonable?
- 5) Have all parties who are expected to assist in the search for possible accommodation, fulfilled their obligations, including the individual or group in need of the accommodation, or their representative?

The duty to reasonably accommodate religious belief does not extend so far as to result in unreasonable discrimination against other individuals or groups characterized by a protected ground, such as religious belief, sex, marital or family status or sexual orientation.

The duty to reasonably accommodate does not extend so far as to cause undue hardship to the respondent. The burden of proving that undue hardship renders the accommodation required to meet the needs of the complainant unreasonable rests with the respondent. To meet that burden, the respondent must provide actual evidence that undue hardship exists, rather than relying on anecdotal or impressionistic assumptions.

In addition to examining the steps taken by the respondent to search for, and consider, options for accommodation, the Commission will evaluate the substance of the accommodation offered to an individual or group as to its sufficiency in satisfying the request for reasonable accommodation.

As stated above, in determining whether reasonable accommodation of an individual's religious belief has occurred, the Commission will consider the particular circumstances of each case. Examples of reasonable accommodation of the presence or absence of religious belief include:

- 1) A school designates a room for use by students whose religious observance requires prayer at noon-hour;
- 2) An airport sets aside a suitable area for travellers to pray, where the available chapel is not suitable for the religious observance, which requires prostration;
- 3) An employer and union agree to adapt the regular work schedule to allow an employee to observe his or her Sabbath, or other day of religious observance;
- 4) A hospital directs its pastoral staff to respect a patient's request that he or she has no visits or literature from the pastoral office; and
- 5) An employer re-assigns a non-essential task of an employee, after the employee identifies that task as placing him or her in conflict with his or her religious beliefs.

APPROVED BY:

Original Signed By

 "Janet Baldwin"
 Chairperson

 21 May 2003
 Date