



KNOW YOUR RIGHTS

EMPLOYMENT



Know Your Rights: Employment

Like any other employee, you have rights in the workplace. Human rights laws in Canada offer protection against discrimination at work based on disability, including one's HIV-positive status. Federal and provincial laws also protect your privacy.

Laws and how they apply in the workplace vary from one province to another and depend on who you work for (e.g. for a federal agency or a private business) or whether you are unionized.

This info sheet is meant to provide **general legal information** about your rights in the workplace. To know how the law applies to your situation you will need to seek legal advice. You can also connect with the relevant human rights commission in your province, a privacy commissioner (or ombudsman), or your union to get more information.

The law can change over time. This guide was written in January 2026, so you may want to check with a lawyer or legal clinic to get the most up-to-date information.

Acknowledgements

The HIV Legal Network works on the land now called Canada, which is located on treaty lands, stolen lands, and unceded territories of Indigenous groups and communities who have respected and cared for this land since time immemorial. We work to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples that contribute to the disproportionate impact of the HIV epidemic on Indigenous communities.

We are committed to learning to work in solidarity and to dismantling and decolonizing practices and institutions to respect Indigenous Peoples and Indigenous ways of knowing and being.

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1. What is HIV-related discrimination?

In the law, discrimination is treating a person differently because of a personal characteristic or perceived characteristic, where this different treatment denies that person a benefit available to others or imposes some disadvantage on that person. Harassment can be a form of discrimination.

In Canada, human rights laws at both the federal and provincial/territorial levels prohibit discrimination in workplaces, housing, services, facilities, and contracts or agreements when the discrimination is based on particular characteristics or “protected grounds.” These grounds notably include age, race, ethnicity, colour, religion, sex, marital status, disability (or “handicap” in some laws), sexual orientation, gender identity and expression, and place of origin.

It is well established in Canada that the law that prohibits discrimination based on disability includes HIV. As a result, discrimination based on an individual’s HIV-positive status or diagnosis of AIDS is against the law. Similarly, discriminating against someone because they are perceived to live with HIV — whether or not they actually do — is also illegal.

Some examples of what may constitute discrimination in the workplace include:

- asking about your HIV status at a job interview;
- requiring you take an HIV test as a condition of employment;
- harassing you because you live with HIV or are perceived to live with HIV, or making harassing or discriminatory comments about people living with HIV;
- not hiring you or reducing your work hours because you live with HIV;
- firing you because you live with HIV or because a customer has expressed concerns about you living with HIV; and
- refusing to consider your request for reasonable accommodation.

2. What is an HIV-related privacy violation?

Your HIV status and other personal health information is private, personal information. You should be able to control who has this information and what they do with it. If you tell your employer or a co-worker *acting on behalf of your employer* (e.g. a human resources manager) that you live with HIV (or any other personal health information), those people are obliged to keep it confidential.

Generally speaking, your employer cannot legally disclose information about your HIV status or other medical information to third parties (e.g. other employees, clients, other companies, friends, etc.) without your consent. This duty of confidentiality continues to apply even if a person changes jobs.

Examples of privacy violations by an employer would include:

- asking about your HIV status at a job interview;
- requiring specific information about your health that is not necessary to accommodate a disability;
- telling other employees that you are HIV-positive without your consent; and
- telling a prospective employer that you are HIV-positive without your consent (e.g. if a prospective employer calls to check your employment references).

While the privacy of your personal health information is protected, your employer is entitled to request some information for legitimate purposes. For instance, if you need accommodation, an employer can request medical information to provide reasonable accommodation. An employer can also request medical information if you ask for sick leave or to ensure you are able to continue or return to work (see below).



Many people living with HIV may worry that if they apply for a job or get hired and need accommodation, take sick leave, or access sick benefits they may be forced to disclose that they live with HIV and/or experience discrimination.

Protections against discrimination and against violations of your privacy start applying during the hiring process, and an employer must continue to protect your personal health information even after you leave your job.

3. Do I have to tell my employer that I live with HIV?

Generally, you do not have to tell your employer, your co-workers, or anyone you work with that you live with HIV. Whether or not you disclose your HIV status at work and to whom should be entirely up to you. Your personal health information, including your HIV status, is private, personal information. Be aware that there may be some exceptions to the general rule that you don't have to disclose in very specific cases where risks of transmission may be of concern (e.g. see below for information in healthcare settings).

4. When I apply for a job, can an employer ask me if I live with HIV or require me to take an HIV test?

An employer cannot request to know about your HIV status, just as an employer should generally not ask about disability, sexual orientation, marital status, religion, or other similar personal characteristics that are protected grounds against discrimination.

During the hiring process, an employer only needs to know about your skills, experience, and ability to perform the specific duties of the job and should not ask about your health or a medical diagnosis. That said, they can ask questions to assess your ability to perform the duties of the job (e.g. if you are physically able to lift heavy objects or if you are able to work full-time hours). If you choose to disclose that you have a disability at this stage of the process, they may also reasonably ask if you will need accommodation.

In some cases, an employer may be entitled to ask specific questions related to your health or require a medical exam during the recruitment process if these correspond to necessary and reasonable requirements for a particular role (e.g. questions on medication if drowsiness could pose security issues on the job).

Medical tests should be requested after a conditional offer is made, although this might vary from one province to another. Moreover, it should only be used to assess your ability to perform a job. There is no reason for the physician who performed the test to disclose your HIV status to your employer. They should only indicate if you are able to perform the duties of the job, including with some accommodation.

Importantly, there is no reason for an employer to ask about your HIV status specifically or to request that you take a HIV test, as a positive diagnosis would not indicate whether you are able to perform specific job duties. (See below for information on employment in healthcare).

If you choose to reveal that you live with HIV during the hiring process and you are not hired because of this, it could constitute unlawful discrimination based on disability. In practice, however, it may be difficult to establish that you were not hired because you disclosed that you live with HIV.

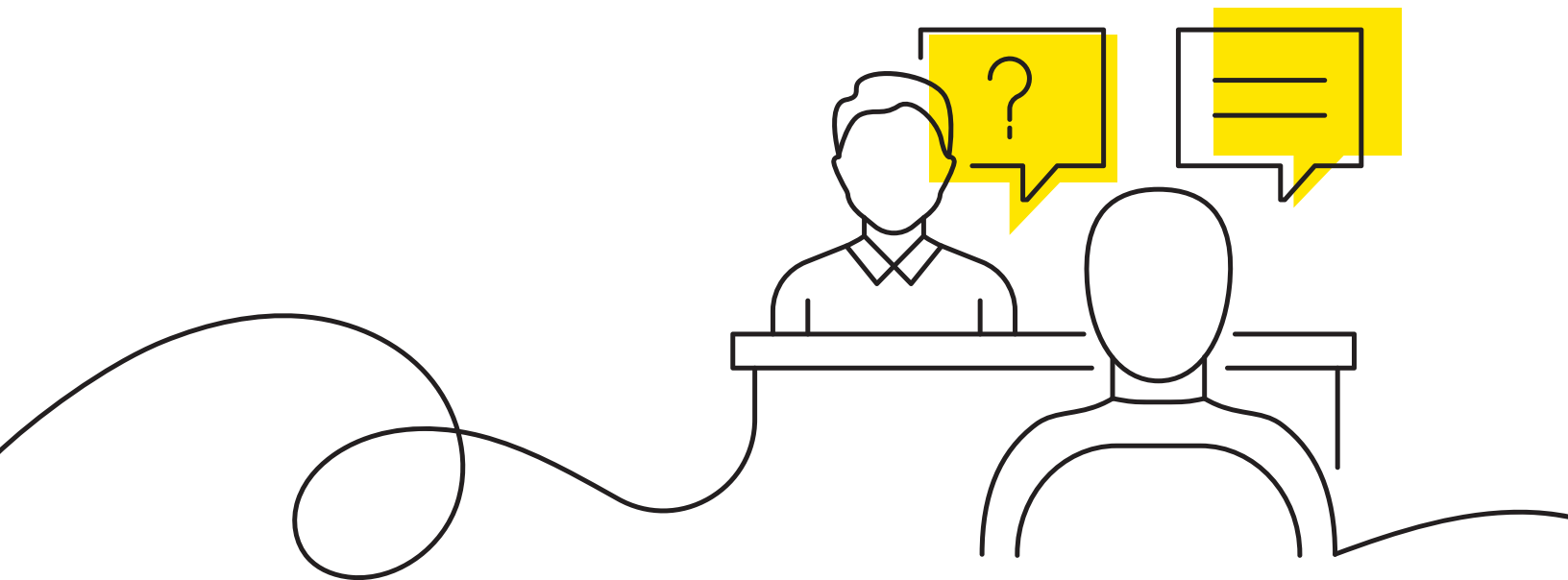
5. What if an employer asks questions about my health and/or HIV status during the recruitment process?

Even though it might be against the law, it is not uncommon for job applications and questionnaires to include questions about medical conditions such as HIV, or for interviewers to ask inappropriate questions about health status and specific conditions. This has become a major issue for anyone who has a medical condition or disability in recent years, including for people living with HIV. In 2011, the Quebec Human Rights Commission sent a letter to 220 organizations in the province's health and social services sector reminding them of their obligation to comply with human rights law regarding pre-employment interviews and medical forms. In a 2025 open letter published jointly with Quebec, *la Commission d'accès à l'information* called on employers to respect privacy and human rights during the hiring process.

How you choose to answer these questions is a personal decision. You may decide to skip the question on a form, lie, say something general about your health, or say that you have a disability without specifying that you live with HIV. **Think ahead of time about how you will handle such questions if they come up:** your response may not only affect your chances of getting the job, but there may be repercussions later if the employer finds out that you did not tell the truth during the recruitment process, including potential termination of your contract. Courts have found that dishonesty in the job application process could, in some circumstances, be a legitimate and non-discriminatory reason to fire someone. Unfortunately, there is no perfect solution to such a dilemma.

You may want to seek legal advice to see how this could play out in your case, including whether an employer could legally terminate your contract or rescind a job offer for lying on a form and/or not disclosing you live with HIV or a disability. Protection offered by the law and how it is interpreted by courts can vary depending on where you work and if you are unionized. It will also depend on the nature of the job you are applying for.

The human rights tribunal in your province may be able to order damages or force an employer to amend or stop using a questionnaire if it includes prohibited discriminatory questions.



6. What about if I work in the healthcare field? Do I have to tell my employer that I live with HIV?

As noted above, the general rule is that there is no legal obligation to disclose to an employer that you live with HIV. However, in some healthcare-related jobs there may be some special requirements for people with blood-borne infections including HIV that are set out by your profession's regulatory body (such as a College of Physicians and Surgeons or a College of Nurses). These rules are specific to each profession and may also vary between provinces/territories. They often require professionals to be aware of their serological status and follow guidance to prevent transmission.

Healthcare professionals and students performing "exposure-prone procedures" (invasive procedures where there is a possibility of direct contact between the skin of the healthcare worker and a sharp instrument or tissue inside a body cavity or wound) are generally required to disclose their HIV status to their professional College and an expert committee might issue recommendations.

In Quebec, if you have a blood-borne infection and you perform exposure-prone procedures, you must connect with the Quebec Blood-Borne Infection Risk Assessment Unit (SERTIH). Your employer will be notified that you have been diagnosed with a blood-borne infection without specifying which one.

If you work in healthcare or are considering a career in healthcare, contact the relevant regulatory bodies to find out the specific rules that would apply to you. In Quebec, look for information on SERTIH and professions concerned.

The College for Physicians and Surgeons of Ontario's 1998 *Blood Borne Virus* policy required routine testing for all physicians who perform or could potentially perform exposure-prone procedures. It also required physicians to report if they are seropositive for hepatitis B virus (HBV), hepatitis C virus (HCV), and/or human immunodeficiency virus (HIV). That policy was rescinded in 2023. It was deemed that, given medical advances and the extremely low risk of transmission in addition to general guidance and ethical and professional obligations, a specific policy was no longer justified. Similar changes in policies were made by other colleges including the College of Midwives of Ontario.

7. Is the confidentiality of my HIV status protected at work?

Yes. If you choose to disclose that you live with HIV to your employer or to a co-worker *acting on behalf of your employer* (e.g. a human resources manager), those people are obliged to keep this information confidential. Generally speaking, your employer cannot disclose information about your HIV status or other medical information to third parties (e.g. other employees, clients, other companies, friends, etc.) without your consent and have obligations to protect confidential information in the workplace. Your employer should inform you about how they will use or disclose your health information.

In practice, however, it is often difficult to control the flow of information in the workplace and legal remedies are limited if a breach of privacy occurs.

Finally, be aware that if you tell a co-worker other than someone who acts in an official capacity as a representative of your employer, then that co-worker may not have the same legal duty of confidentiality. This is because an employer would have specific obligations *as an employer* to protect their employee's personal information under various privacy laws.

In Quebec, however, both colleagues and supervisors have a similar obligation to keep your HIV status confidential. New legislation has also enhanced protection of confidentiality in the workplace. For instance, employers must appoint a person in charge of the protection of personal information in the organization and develop governance policies and practices to ensure the protection of personal information.

Privacy law in Canada is complex, and not all personal information or workplaces will be subject to the same legislation. What privacy laws apply usually depends on where you work (e.g. private sector or provincial institution), where your work is located (as different provinces have different legislation) and the type of information involved (e.g. some provinces have privacy laws for health information). It might also depend on whether a collective agreement is in place.

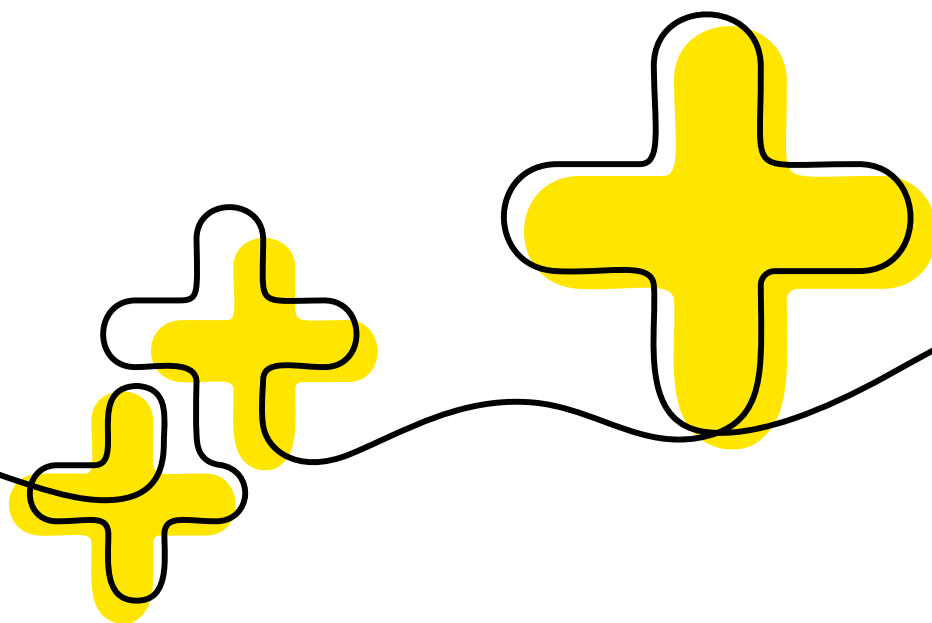
For more information on privacy laws in Canada; what law may apply in your context; and who to turn to in case of violation, check the Office of the Privacy Commission of Canada website and online tool: [Find the right organization to contact about your privacy issue](https://www.priv.gc.ca/en/report-a-concern/leg_info_201405) (https://www.priv.gc.ca/en/report-a-concern/leg_info_201405).

8. Can my employer (or my employer's insurance company) refuse to provide me with health or disability benefits because I live with HIV?

Your employer, or the insurance company providing benefits coverage, cannot refuse to provide health or disability benefits because you live with HIV.

However, **some benefits**, including access to long-term disability benefits, **may be lawfully restricted** in cases of "pre-existing conditions." These are illnesses or health conditions that existed before the employee signed up to the plan. These plans may require employees with pre-existing conditions to pay an additional charge for coverage, may require a specific amount of time to pass before making a health claim related to a pre-existing condition, or may exclude any coverage at all for expenses related to pre-existing conditions. If you were HIV-positive before you started working for the employer, your benefits might be limited by such a clause.

In Quebec, insurers offering *group insurance plans* (*assurance collective*) are required to provide the same coverage to all members of an insured group, regardless of their health status. If you are covered by *group insurance* as an employee, you will have access to the same *basic coverage* as others (including long-term disability benefits if included in the group plan). As a result, there is no need for you to disclose your status to the insurance company nor any limitations to basic coverage based on your HIV-positive status.



9. Do I have to disclose that I live with HIV to claim benefits under my workplace insurance?

An employee is not required to reveal that they live with HIV in order to apply for health or disability benefits under an insurance plan, but they will need to provide medical documentation. Your doctors may therefore need to reveal specific conditions and diagnoses underlying the claim to insurance companies when you are applying for benefits or submitting a claim form.

If your paperwork passes through the hands of your employer or someone in your human resources department, they are legally obliged to keep all information about your medical condition strictly confidential. However, you may also prefer to submit medical documentation and the claim forms directly to the insurance company rather than through the human resources personnel at your place of employment. Call the insurance company directly to find out their requirements.

All insurance companies have strict policies regarding confidentiality of client information and are required by law to keep claim information private. Insurance companies must have written permission from the insured person to discuss medical information with anyone who works outside of the insurance company.

If you lose access to medication cost coverage under a workplace insurance policy because you left your job, your province may offer some public coverage of HIV medications or medication more generally. Some provinces provide full or partial cost coverage on an income-tested basis while others may provide coverage regardless of your income. A community organization may also be able to support you or provide useful referrals to help you find public or other alternate drug cost coverage.

10. What rights do I have to accommodation within the workplace?

Employers must provide a discrimination-free work environment. Under human rights laws in Canada, they have an obligation to provide “reasonable accommodation” to eliminate or reduce barriers that job applicants or employees would face because of a personal characteristic protected from discrimination (e.g. age, religion, disability, etc.).

The purpose of accommodation is to give everyone equal opportunities in employment. It prevents people from being unfairly excluded, including on the grounds of health or disability.

People living with HIV have a right to work free from discrimination.

With significant advances in treatment, HIV has become a manageable chronic illness. Side effects in relation to treatment have also reduced significantly, and many people do not experience any. But everyone is different, and people living with HIV can have periods of good health and period of illness (“episodic disability”) that may require accommodation. For instance, a newly diagnosed employee may experience side effects for a few weeks as they adjust to their new medication.

Every employer has a legal duty to accommodate their employee, up to the point of “undue hardship” (see below).

11. What are some possible ways to accommodate an employee with HIV in the workplace?

Because the effects of HIV on an employee may change over time, as with other health conditions, the specific ways in which an employee needs to be accommodated could also change over time.

Accommodation will always vary according to a **person’s unique needs**, which must be considered, assessed, and accommodated on an individual basis. Some examples of reasonable accommodations include, *but are not limited to*:

- physical modification of a work site;
- job modifications or reassignment to less demanding duties;
- flexible work schedule (e.g. to permit an employee to shift from full-time to part-time work and back again to accommodate periods of illness and wellness);
- additional time off to attend medical appointments;
- extra breaks or altering break schedules (e.g. to allow employees to take their medications at prescribed times or to deal with the side effects of medication); and
- leaves of absence.

12. Can my employer require me to disclose my HIV or other medical diagnosis if I request accommodation at work?

No, you would not need to disclose your specific medical condition(s) to obtain accommodation in employment. However, you do have to tell your employer of the need for accommodation and give them sufficient information to accommodate you. You should provide relevant and appropriate information, explaining the limitations and requirements (often related to the symptoms of your illness or side effects from medications) to fulfill the essential duties of your job.

When considering a request for accommodation, your employer would be entitled to ask for medical documentation such as a doctor's note, for instance, that confirms that you have a disability and describes the limitations it places on your ability to do your job.

Taking sick leave

If you ask for sick leave, your employer can request a doctor's note that confirms you need to take sick leave. Provincial legislation may set conditions for an employer to request a doctor's note to prevent abusive practices. For instance, British Columbia's Employment Standards Act prohibits employers from requiring a doctor's note for the first two health-related absences of up to five consecutive days each in a calendar year. After that they can request reasonable proof of illness like a doctor's note.

Your employer should only request medical documentation that is relevant to your ability to continue working as well as any steps required to accommodate you or to protect your health and the health of co-workers or other people with whom you have contact. There is no need to disclose a specific diagnosis to an employer to receive accommodation — although you may choose to do so.

Your employer should make these requirements clear when requesting documentation from your healthcare provider. **If it is not made clear and you don't want your employer to know you have HIV, you should make this known to whichever doctor or other health professional is providing the information.** Whatever health information is disclosed, your employer is legally obliged to keep it confidential.

In many cases, employees do not request accommodation even if they need it. Employers should not be passive if they see that something is preventing you from performing the essential duties of their occupation and may have a duty to inquire if accommodation would assist you. Employers should never make assumptions about a worker's behaviour or its cause and should ask questions in a way that is respectful, supportive, and nonjudgemental.

13. How should I make a request for accommodation?

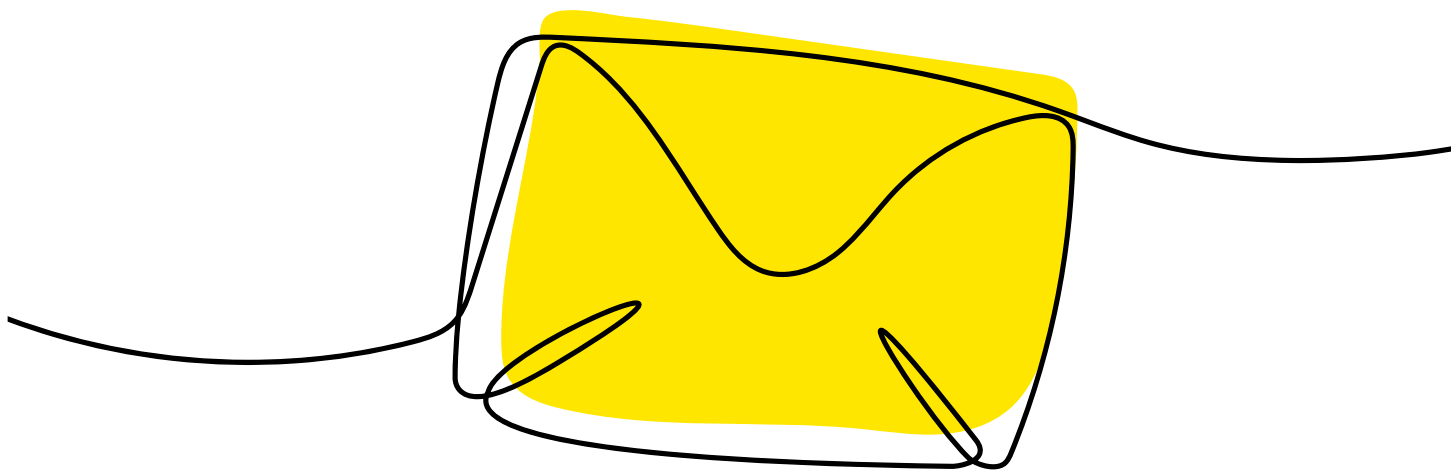
In order to request accommodation in the workplace, you must disclose that you have a disability and inform your employer of your needs and relevant restrictions or limitations.

You have a duty to cooperate with your employer and to facilitate and accept reasonable accommodation that meets your needs.

This might entail:

- cooperating to obtain necessary information (e.g. medical or other expert opinions);
- participating in discussions about solutions;
- helping to develop an accommodation plan; and
- working with the employer on an ongoing basis to manage and monitor the accommodation process.

Employers are legally required to provide reasonable accommodation until the point of “undue hardship.” Moreover, employers are not required to provide perfect accommodation or the exact accommodation that you requested. If you reject a reasonable solution that meets your accommodation needs, the employer may be found to have met their duty to accommodate. For example, if you require a working environment with few distractions, you might prefer to work from home, but the employer may choose to accommodate you by providing you with a quiet workstation or noise-cancelling headphones. It is important that everyone works together to come up with creative, flexible solutions.



14. What does my employer have to do if I request some accommodation?

When receiving your request, your employer must follow all the steps to accommodate you until the point of “undue hardship.”

An employer is expected to:

- deal with your request for accommodation in good faith and in a timely manner;
- treat you with dignity and respect;
- keep your personal information confidential;
- discuss with you the purpose and essential functions of your job and the accommodation you require;
- obtain expert advice or opinion where necessary (e.g. some employers may have wrong assumptions on accommodations needed);
- identify potential accommodation options and assess whether they would allow you to perform the job optimally;
- develop an accommodation plan and agreement with you;
- manage and monitor that plan to ensure it's being applied correctly
- be prepared for your needs to change over time and for potential adjustments to the accommodation plan; and
- provide detailed explanation if accommodation is not possible.

Your employer cannot refuse to accommodate you without legitimate reasons (see next page).

15. If I belong to a trade union, can it help me with my request for accommodation?

Yes. In a unionized workplace, the union negotiates a collective agreement with the employer to help protect employees, including against unfair treatment. Those agreements include the protections against discrimination set out in the applicable human rights code, including the employer's duty to provide reasonable accommodation for employees with disabilities.

If you need accommodation to work, your union can help by supporting this request. If the employer discriminates against you by refusing to provide reasonable accommodation, the union can file a grievance on your behalf under the collective agreement. The union is also under a duty not to discriminate and to agree to reasonable measures by the employer to accommodate an employee with a disability, unless this would impose undue hardship on the union and its members.

16. When could my request for accommodation create “undue hardship” for my employer?

An employee’s right to accommodation in the workplace is not without limits. Your employer is required to accommodate a request for accommodation unless it would create “undue hardship” for the employer. There is no precise legal definition of what this means, and the criteria for assessing it vary between federal and provincial laws as well as between provinces and territories.

Undue Hardship occurs when required accommodation measures would be prohibitively expensive or create undue risks to health or safety. This is where the duty to accommodate ends. There is no precise legal definition of undue hardship or standard formula for determining it. Each situation is unique and must be assessed individually. Some degree of hardship is reasonable; however, an employer will have reached undue hardship when reasonable measures of accommodation have been exhausted and only unreasonable or impractical options remain. A claim of undue hardship must be supported with facts and a detailed analysis of options.

Source: Canadian Human Rights Commission, *Workplace accommodation - A guide for federally regulated employers*, 2024.

Each situation should be assessed individually, based on all the relevant circumstances and according to the criteria of “undue hardship” in your jurisdiction. However, here are some factors commonly considered in assessing whether an accommodation would cause undue hardship to the employer:

- the cost of the measure(s) required;
- the nature, size, and scope of the employer;
- whether the workforce and facilities are interchangeable;
- the degree to which the accommodation measures would interfere in the operation of the employer’s business, and the overall economic climate;
- the health and safety of the employee, coworkers, and the public; and
- the impact on other employees.

An arbitrator, tribunal, or court assessing cost as an undue hardship will require your employer to provide evidence showing that the financial cost is unreasonably high. It may consider a variety of factors such as the size of the company, the ease with which the workforce and facilities can be adapted to the circumstances, the length of time accommodation is needed, and the prevailing economic climate.

Your employer has the burden of proving they have reached the point of undue hardship. The evidence required to prove undue hardship must be objective, real, direct, and — in the case of cost — quantifiable. This means your employer must provide facts and figures to support a claim that the proposed accommodation in fact causes undue hardship.

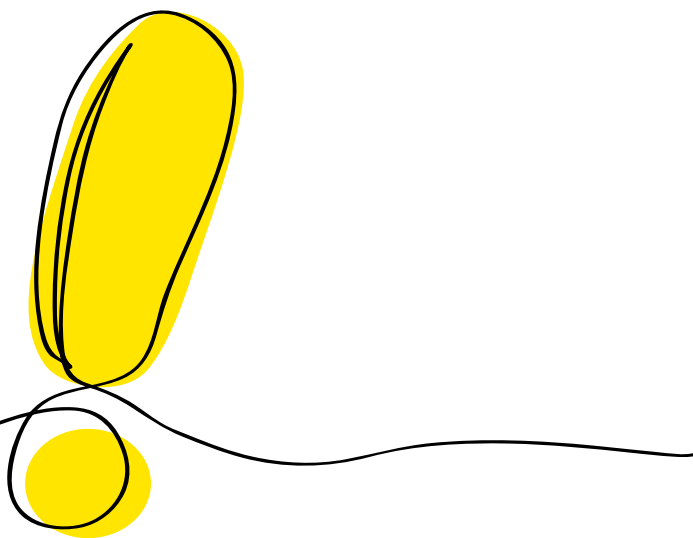
17. What should I do if I experience discrimination at work?

If you believe you are experiencing discrimination or harassment at work, you should try to keep a record of what is happening. If possible, your notes should include:

- the date of the incident(s);
- a description of the incident(s);
- the names and contact information of witnesses, if any;
- what was said or done to you and how you responded; and
- copies of all relevant e-mails, text messages, postings on social media (e.g. Facebook, WhatsApp, X), letters, and documents.

Sometimes, confronting the person who is responsible for the discrimination may resolve the situation. You might also bring the matter to the attention of a manager or director in the company or organization, as your employer has an obligation to take steps to make sure their employees don't face discrimination in the workplace. A community organization may also be able to support you or provide useful referrals if you decide to take such actions.

You may want to contact the appropriate **human rights tribunal or commission** in your province, or at the federal-level depending on where you work, for information about initiating a human rights complaint and for other referrals. You may also choose to contact a lawyer for legal advice about your situation. In some situations, the lawyer may contact your employer to attempt to stop the discrimination and that may work. If you are unionized, you should contact your union.



How the law applies may vary from one province to another but to prove that you have been discriminated against in relation to HIV, you would usually have to show that:

1. you live with HIV, or were perceived to live with HIV, by the person that you allege discriminated;
2. you suffered a negative impact of some sort in your employment; and
3. it is reasonable to conclude, based on the evidence, that one of the reasons you experienced this negative impact is that you have or were perceived to have HIV.

An employer may say that their decision was not related to your HIV status (or perceived HIV status), or they may say that they did not discriminate because their conduct was based on a bona fide (i.e. good faith) occupational requirement. **In that case, the employer would have to show that:**

- its action which you are challenging (e.g. the rule, job requirement, or decision) was done for a purpose directly linked to doing the job;
- it was done with an honest and good faith belief that it was necessary for that purpose;
- the action is reasonably necessary to accomplish that work-related purpose; and
- there is no way to accommodate the employee without imposing undue hardship on the employer.

18. What legal options do I have if I experience discrimination at work?

There are several possible steps you can take to deal with discrimination or harassment.

- If there is one, you can use the **internal dispute resolution procedure** of your workplace. Contact the person or office in charge of human resources or handling personnel issues for more information.
- If you belong to a **union**, you are covered by a collective agreement, which incorporates the applicable human rights laws of your jurisdiction. You can file a **grievance** under the agreement with the help of your union. Contact your steward or staff representative.
- You can file a **complaint with the appropriate human rights commission or tribunal**. Depending on the jurisdiction and circumstances, you may be required to use other procedures (such as a grievance if you are unionized or other internal procedures) before a human rights complaint can proceed.
- If your complaint is about discrimination regarding an issue covered by **employment standards laws** — such as unpaid wages, vacation or severance pay, hours of work, pregnancy or parental leave, or similar issues — you can make a complaint with the relevant provincial/territorial agency or ministry responsible for the employment standards legislation in your province or territory. This varies across jurisdictions but it is often the Ministry of Labour or a similar ministry. Note that this mechanism is usually not meant to address discrimination or harassment in the workplace but to enforce employment standards. However, this may vary by province. For instance, in Quebec, *la Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST) has the power to order damages in cases of harassment. Similarly, bullying and harassment can also be reported to WorkSafeBC.
- You can **sue your employer in court** if your rights as an employee have been violated, such as in a wrongful dismissal case. Note that you cannot use this option to seek redress *specifically* for discrimination; for such things, you need to pursue a human rights complaint (either through the relevant commission or tribunal or, if you belong to a union, through a grievance under your collective agreement) and you may have to choose between one or the other option (civil litigation or a human rights complaint).

For complete information on all your legal options as an employee and what would be best for you (e.g. in terms of remedies, time and cost of proceedings, chances of success etc.), speak with a lawyer and/or your union if unionized. Note that when pursuing a claim, you are opening yourself up to the possibility that some personal information, including medical files, may be disclosed. Again, speak to a lawyer to know your legal options and their implications.

19. How do I file a human rights complaint?

Where you file a human rights complaint will depend on where you live and who you work for. For instance, if you work for a federal government department, a federally regulated company (e.g. an airline, a bank), or a First Nation government, the federal Canadian Human Rights Act applies and you should connect with the Canadian Human Rights Commission.

Otherwise, you would generally file your complaint with the human rights commission of the province or territory that you live in. The procedures and services available (e.g. information, mediation) may vary from one province and territory to another and you should contact the appropriate human rights commission or a legal clinic for detailed information.

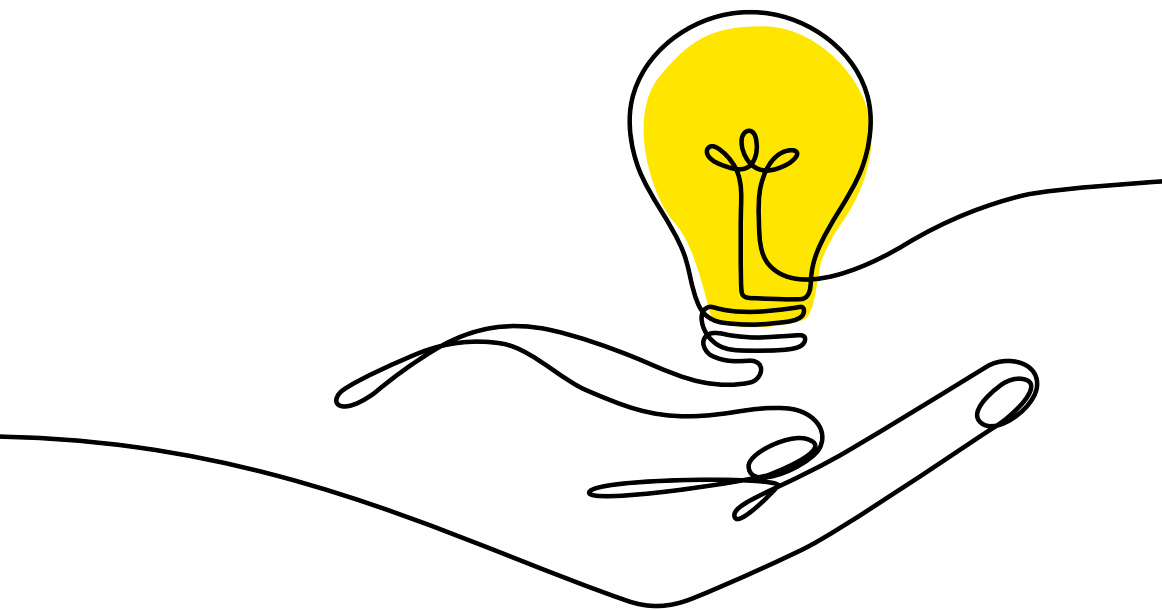
Note that in British Columbia, Ontario, and Nunavut, you file complaints directly with the Human Rights Tribunal rather than with the Commission.

There is usually a “limitation period” that means you must file your complaint within a certain period of time after the discrimination takes place. Often this period is one year from the discriminatory act or the last event in the series of acts of discrimination, but check the relevant legislation.

Depending on your province, human rights commission staff can provide assistance and information to people about their rights under the applicable human rights code. **In British Columbia and Ontario,** support is provided by the British Columbia Human Rights Clinic and the Human Rights Legal Support Centre respectively.

In Quebec, COCQ-SIDA’s legal clinic can provide support for people living with HIV. In Ontario, you can contact HALCO for legal advice if you experience discrimination related to your HIV-positive status.

You do not require a lawyer to represent you through the process, although you may choose to have a lawyer assist you.



20. I belong to a union. Is there a different procedure for making a complaint about discrimination or harassment?

As a union member, if you believe that you have been discriminated against by your employer, your union representative may be able to advocate for you and help resolve the issue. Your collective agreement includes the applicable federal or provincial/territorial human rights laws. This means that if your situation fits under the legal definition of discrimination, your union can file a grievance on your behalf to enforce your rights under the agreement. Your union can assist you with the grievance procedure and represent you, including before an arbitrator. Your union is also subject to the applicable human rights code.

Note that **human rights commissions and tribunals may prevent parallel claims and duplicate proceedings**. This means that if you choose to proceed with a grievance, you may not be able to pursue a human rights complaint based on the same situation. Sometimes a grievance may be your only option.

21. What can I do if my privacy has been violated at work?

Once your privacy has been breached, it is difficult to undo the damage. However, sometimes speaking with the person who is responsible for the privacy breach — as well as those who now know your personal information — about the importance of keeping that information confidential goes a long way towards resolving the problem. Bringing the matter to the attention of a manager or director in the company or organization may also be useful.

If your company or organization has an internal procedure for handling complaints, you may want to use it before trying legal options. A community organization may be able to support you if you decide to take such actions. If you are a union member, you can speak with your union representative about filing a grievance under your collective agreement.

The law protecting the privacy of your personal health information is a patchwork of rules that vary from one province/territory to another. When there has been a violation of your privacy, the legal options and available remedies are limited and will depend on where you live and work. The primary options are to file a **complaint with a privacy commissioner** (or ombudsman) or **go to court**. In Quebec, it would be the Commission d'accès à l'information (CAI).

Which privacy commissioner or ombudsperson you turn to will depend on where you work. It will also vary depending on whether you work in the private or public sector.

22. Can I sue the person or organization who has breached my privacy?

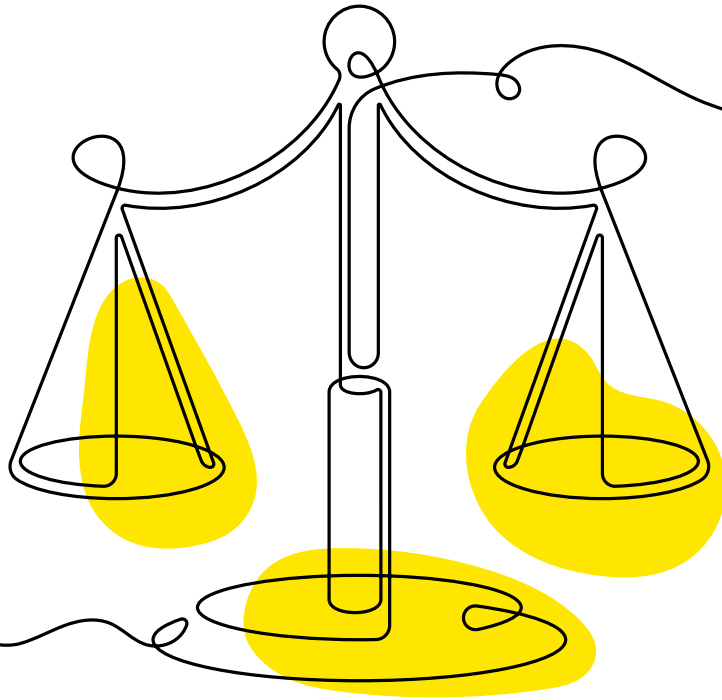
It depends on where you live. **Four provinces (British Columbia, Manitoba, Saskatchewan, and Newfoundland and Labrador)** have privacy legislation that allows you to sue a person in relation to violation of privacy. You should seek legal advice to see if and how it may apply to your situation.

In Quebec, you may be able to bring a suit alleging violation of your privacy and obtain damages based on the Quebec Civil Code and the Quebec Charter of Human Rights and Freedoms as well as under recent laws protecting privacy in the public and in the private sector. In Ontario, you may be able to bring a suit alleging a violation of your privacy and obtain damages either under negligence law or after a successful complaint to the Information and Privacy Commissioner.

If you live in another province or territory, it might be more difficult to bring a case to court and obtain damages. A violation of your privacy (e.g. disclosure of your HIV-positive status without your consent) may not in itself be sufficient for a lawsuit against your employer. The law in this area is still uncertain and evolving and will vary from one province to another.

The main advantage of going to court is that you may receive a monetary award if your case is successful (although the amount may be small). You may also be able to sue those against whom you could not make a complaint through the other mechanisms, including a co-worker. But lawsuits can be expensive, complex, and lengthy and may not ultimately provide you with a solution. Note that there are also limitation periods which vary between provinces/territories, restricting the amount of time available for launching a lawsuit after the breach occurs. You should have a lawyer represent you.

For more information about your options, please contact a lawyer.



ADDITIONAL RESOURCES

Websites of federal and provincial Human Rights Commission and Tribunals can include helpful resources on discrimination at work, the hiring process or accommodation.

Websites of relevant privacy commissioner or ombudsman (at both provincial and federal levels) can provide helpful information on privacy.

Helpful legal resources on accommodation

Alberta Human Rights Commission – Requesting Accommodations in the Workplace, a guide for supporting clients: <https://albertahumanrights.ab.ca/media/q5dgzbot/english-requesting-accommodations-in-the-workplace.pdf>

British Columbia’s Office of the Human Rights Commissioner – Accommodations in the workplace: https://bchumanrights.ca/wp-content/uploads/Infosheet_Accommodations-in-workplace.pdf

Manitoba Human Rights Commission – Reasonable accommodation in the workplace: https://www.manitobahumanrights.ca/education/pdf/guidelines/guideline_reasonableaccommodation.pdf

Canadian Human Rights Commission – Workplace accommodation - A guide for federally regulated employers: <https://www.chrc-ccdp.gc.ca/resources/publications/workplace-accommodation-guide>

Canadian Human Rights Commission – File a discrimination complaint - Find out if you are in the right place: <https://www.chrc-ccdp.gc.ca/find-help/file-discrimination-complaint/find-out-if-you-are-right-place>

Helpful legal resources on privacy

Office of the Privacy Commissioner of Canada – Summary of privacy laws in Canada: https://www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/02_05_d_15

Office of the Privacy Commissioner of Canada – Find the right organization to contact about your privacy issue (online tool): https://www.priv.gc.ca/en/report-a-concern/leg_info_201405/

Office of the Privacy Commissioner of Canada – Privacy in the Workplace: https://www.priv.gc.ca/en/privacy-topics/employers-and-employees/02_05_d_17

Office of the Privacy Commissioner of Canada, Guidelines for obtaining meaningful consent: https://www.priv.gc.ca/en/privacy-topics/collecting-personal-information/consent/gL_omc_201805/

For HIV specific legal advice, you can contact HALCO in Ontario (www.halco.org) and COCQ-SIDA in Québec (www.cocqsida.com). In other provinces, connect with a local legal clinic or contact legal aid. You can also contact the HIV Legal Network (www.hivlegalnetwork.ca) for general legal information.



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