

DISCRIMINATION AND COVID-19

Ontarians must keep human rights principles and relevant human rights treaties at the centre of decision-making when dealing with infectious diseases, such as COVID-19.

Organizations must recognize their human rights obligations and consider the potential disproportionate impacts of COVID-19 on the vulnerable groups they employ or serve. These vulnerable groups include *Indigenous and racialized peoples, people with disabilities, including those with chronic medical conditions, older people living alone or in institutions and low-income communities who have unequal access to health care, childcare and/or are often underemployed.*

Discrimination and/or harassment against any persons or communities related to COVID-19 is prohibited when it involves a ground under the *Ontario Human Rights Code (OHRC)*.

The OHRC's policy position is that the *Code* ground of disability is in relation to COVID-19. It covers medical conditions or perceived medical conditions that carry significant social stigma.

Negative treatment of employees who have, or are perceived to have COVID-19, for reasons unrelated to public health and safety is discriminatory and prohibited under the *Code*.

Employers have a duty to accommodate employees in relation to COVID-19 unless it would amount to undue hardship.

An employer should not send an individual employee home or ask them not to work because of concerns over COVID-19 unless the concerns are reasonable and consistent with the most recent advice from medical and Public Health officials. Consistent with the *OHRC's Policy on ableism and discrimination based on disability* and its *Policy position on medical documentation to be provided when a disability-related accommodation request is made*, employers should take requests for accommodation in good faith. They should be flexible and not overburden the health care system with requests for medical notes. Unnecessarily visiting medical offices increases risk of exposure for everyone.

Employer absenteeism policies must not negatively affect employees who cannot work in connection with COVID-19. **An employer may not discipline or terminate an employee who is unable to come to work because medical or health officials have quarantined them or have advised them to self-isolate and stay home in connection with COVID-19.**

An employee who has care-giving responsibilities should be accommodated based on their family status to the point of undue hardship which might include staying home.

At the same time, employers are entitled to expect that employees will continue to perform their work unless they have a legitimate reason why they cannot. If an employee is required to self-isolate, the employer is entitled to explore alternative options, such as remote work, for how the employee may continue to perform productive work, including the possibility of working remotely.

FOR MORE INFORMATION:

COVID-19 and Ontario Human Rights Code – Questions and Answers: www.ohrc.on.ca/en/news_centre/covid-19-and-ontario%E2%80%99s-human-rights-code-%E2%80%93-questions-and-answers

Policy on ableism and discrimination based on disability: www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability

OHRC policy position on medical documentation to be provided when a disability-related accommodation request is made: www.ohrc.on.ca/en/ohrc-policy-position-medical-documentation-be-provided-when-disability-related-accommodation-request

Canadian Human Rights Commission: www.chrc-ccdp.gc.ca

