

**Duty to
Accommodate:
Training Evaluation
Report and
Training Materials
2018**

ACLRC

ACLRC
Alberta
Civil Liberties
Research
Centre

DUTY TO ACCOMMODATE TRAINING

TRAINING EVALUATION REPORT AND TRAINING
MATERIALS

By the

Alberta Civil Liberties Research Centre

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Executive Summary

This Training Evaluation Report evaluates human rights education (HRE) designed and delivered by the Alberta Civil Liberties Research Centre (ACLRC) to provide training to employers, employees and small business organizations on their rights and responsibilities under human rights legislation to accommodate the needs of those protected under that legislation (Duty to Accommodate Training).

Three sets of training materials and workshops were delivered. The first focused on the duty of employers and small businesses to accommodate the needs of employees, with a focus on the duty to accommodate the needs of employees with physical or mental disabilities. The second focused on the duty of employers and small businesses to accommodate the needs of persons in the LGBT (Lesbian, Gay, Bi-Sexual, Transgender) community, specifically on the grounds of gender, gender identity, gender expression and sexual orientation. The third focused on human rights law in the workplace generally, including the duty to accommodate.

The ACLRC developed materials and piloted several workshops across Alberta in 2017 and 2018. Funding for the training was obtained from the Alberta Human Rights Education and Multiculturalism Fund Program.

Overall, the training was well received by the workshop participants who rated the experience as either good or excellent. Participants reported an increased awareness regarding the duty to accommodate and their role in preventing discrimination and providing more inclusive workplaces and business environments for employees and the public. The most significant gap identified was the need for more training time and pre and post-training support.

The evaluation process identified a number of improvements needed in order to better achieve the training objectives, which relate primarily to the evaluation process and training time and support.

The following is a summary of key recommendations for future actions:

1. Conduct pre-training evaluations to assess the training needs of participants and allow trainers to customize the training to fit participant knowledge and experience.
2. Provide participants with training materials prior to training to allow them to become more familiar with the subject matter.
3. Adopt a model to evaluate HRE training and integrate evaluation into all components of the training process, including in training design, delivery and

- follow-up. One recommended evaluation process is the Kirpatrick Model used to evaluate the subject Duty to Accommodate Training.
4. Increase training time to allow for more class discussion and interaction.

INTRODUCTION

This Evaluation Report is based on an evaluation model recommended in a joint publication of the EQUITAS-International Centre for Human Rights Education and the Office of the United Nations High Commissioner for Human Rights (OHCHR), *Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators*¹ (EQUITAS-OHCHR Handbook or the Handbook). The Handbook is aimed at strengthening the evaluation of HRE training in order to increase its impact. It highlights research and practice in educational evaluation (Part I), a five-step process for integrating evaluation throughout the HRE process, including in the training design, delivery and follow-up phases (Part II), particular evaluation concerns (Part III), tools and techniques for evaluation (Part IV) and useful resources for HRE evaluation (Part V). This Evaluation Report focuses primarily on the application of Part II of the EQUITAS-OHCHR Handbook.

PART I: DESCRIPTION OF THE TRAINING

Part I of this Report contains basic information related to the Duty to Accommodate Training. It provides background on the training needs identified, outlines the goal and objectives of the training, and describes the training process and content.

Training Needs

The Duty to Accommodate Training resulted from the need to respond to employer and small business requests for information and training regarding their duty to protect employees and members of the public against discrimination under human rights legislation, and in particular, their duty to accommodate the needs of those protected under the legislation.

The ACLRC receives many inquiries from employers and businesses, particularly those without their own human resources or legal departments, for information and education on the law prohibiting discrimination, particularly in respect of their duty to accommodate the individual needs of persons with mental or physical disabilities and persons belonging to the lesbian, gay, bisexual and transgender (LGBT) community. Larger employers can consult with their legal departments to understand and determine the extent of accommodation that is required. However, small and mid-sized employers,

¹ *Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators*, online at: <https://equitas.org/may-10-2011-publication-of-evaluating-human-rights-training-activities-a-handbook-for-human-rights-educators/>.

who often do not have ready access to a lawyer, are unaware of their legal obligations under Canadian human rights laws, including their duty to accommodate. According to the Annual Reports of the Alberta Human Rights Commission (AHRC or the Commission), the most common complaints filed with the Commission for the past several years allege discrimination in employment on the basis of mental or physical disability. The issue of the extent of an employer's duty to accommodate an employee's disability is often the basis for cases that are appealed to human rights tribunals and the courts.

The ACLRC is also known for its work to further equality and provide support to the LGBT community, work in which it has been involved for over 30 years. In recent years, the ACLRC has received an increasing number of requests from Alberta employers and small businesses seeking information, resources and education regarding the meaning and distinction between the protected grounds of gender, gender identity, gender expression and sexual orientation under human rights legislation and on how to accommodate individual needs based on these grounds. One such request came from the Association of Alberta Registry Agents (AARA) to assist them to prepare their members to respond to anticipated requests from the LGBT community for changes to their identity documents resulting from amendments to the *Vital Statistics Act*² that now allows Albertans to choose a gender-neutral marker on their identity documents.

Training Goal

The goal of the Duty to Accommodate Training was to develop training materials and pilot workshops for Alberta employers and small to mid-size businesses to inform them about and show them how to properly comply with their legal duty to accommodate. The ultimate goal of the Training was to assist employers and businesses to build workplaces and business environments that respect and provide equal opportunities and benefits to all employees, customers and clients, and in particular, to those with physical or mental disabilities and those who belong to the LGBT community.

Training Objectives

The objectives of the Duty to Accommodate Training was to provide employers and small businesses with legal information and resources that would allow them to:

- a. Identify the human rights laws that prohibit employers and small businesses from discriminating against employees and clients/customers.
- b. Identify the 15 grounds upon which discrimination is prohibited and a more in-depth understanding of the meaning of the prohibited grounds of mental

² *Vital Statistics Act*, SA 2007, c V-4.1

- disability, physical disability, gender, gender identity, gender expression and sexual orientation.
- c. Understand what constitutes discrimination and identify discriminatory actions and practices.
 - d. Understand the legal duty to accommodate the needs of employees, customers and clients to the point of undue hardship and the main factors to consider in determining when the point of undue hardship has been reached.
 - e. Recognize circumstances in which the duty to accommodate arises.
 - f. Document the process of accommodation.
 - g. Access resources to assist them to develop and/or assess their own accommodation policies and practices.

Overview of the Content

The law prohibiting discrimination and imposing a duty to accommodate the needs of those protected under human rights legislation is complicated and continues to develop.

Federal and provincial/territorial human rights legislation prohibits discrimination in specific areas against persons with specific characteristics. Although this legislation is similar, it differs somewhat across jurisdictions.

The *Alberta Human Rights Act*³ (AHRA or the Act) prohibits discrimination in five areas including in the areas of employment practices,⁴ applications and advertisements regarding employment⁵ and in the area of the provision of goods, services, accommodation and facilities customarily available to the public.⁶ Discrimination is prohibited on 15 grounds including on grounds of physical disability, mental disability, gender, gender identity, gender expression and sexual orientation.

The AHRA does not expressly state what activities are included in each of the five areas where discrimination is prohibited, define the grounds upon which discrimination is prohibited, or explain the meaning of discrimination or accommodation. These meanings have been developed through human rights tribunal and court decisions.

In order to protect against discrimination, the law imposes a duty on those operating in any of the five specific areas to accommodate the needs of those protected under the legislation, unless the accommodation would cause undue hardship. This is referred to as the “duty to accommodate to the point of undue hardship”.

³ *Alberta Human Rights Act*, RSA 2000, c A-25.5 [AHRA].

⁴ AHRA, section 7

⁵ AHRA, section 8

⁶ AHRA, section 4

The AHRA prohibition against discrimination is not absolute. Discrimination is permitted in three main circumstances.

First, the AHRA does not apply to policies, programs or activities that have the objective of ameliorating the conditions of disadvantaged persons.⁷ Second, discrimination is not prohibited if an organization can show that a limitation on individual rights is “reasonable and justifiable in the circumstances”.⁸ Third, employers may impose discriminatory practices, standards, policies or rules if the employer can show that it is a necessary requirement of a job, referred to as a “*bona fide* occupational requirement”.⁹

In order to justify discrimination as reasonable and justifiable in the circumstances or as a *bona fide* occupational requirement, the courts have ruled that those raising these defences must first prove that they attempted to accommodate the individual needs of persons affected. Accommodation means making changes to practices, rules, standards, policies or physical environments to ensure that they do not have a negative effect on anyone based on any protected ground. This is referred to in law as the legal “duty to accommodate.” Accommodation is a way to balance the diverse needs of individuals with the needs of those required to protect individual human rights. As a result, the duty to accommodate is limited to the point where accommodation would cause “undue hardship”. Undue hardship occurs if accommodation would create onerous conditions for the person or entity with the duty to accommodate, such as intolerable financial costs, unsafe conditions or serious disruption to business.

The training materials covered the following topics:

1. Overview of sources of Canadian human rights laws
2. Distinction between human rights laws applicable to federal vs. provincial/territorial employers and businesses
3. Purpose of prohibiting discrimination – an inclusive workplace or business environment
4. Five areas in which discrimination is prohibited under the AHRA
5. Fifteen grounds upon which discrimination is prohibited under the AHRA
6. AHRA complaint process
7. Statistics on the percentage of complaints received by the AHRC based on each of the 15 prohibited grounds of discrimination and in each of the 5 areas in which discrimination is prohibited
8. General legal principles applicable to all human rights complaints
9. Legal Duty to Accommodate including:
 - Goal of accommodation
 - Meaning of accommodation

⁷ AHRA, section 10.1.

⁸ AHRA, section 11.

⁹ AHRA, sections 7 and 8.

- When the duty to accommodate applies
 - The duty to accommodate to the point of undue hardship
 - Meaning of bona fide occupational requirement
 - Employer’s responsibilities under duty to accommodate
 - Employee’s responsibilities under duty to accommodate
10. Case Studies—Case studies were provided and discussed with participants to provide them with an opportunity to apply their learning to common workplace or business circumstances that will require accommodation.
 11. Resources—Resources were provided where participants can access more detailed information on the prohibition against discrimination and the duty to accommodate.

Training Approach and Methodology

The ACLRC human rights educators, who are lawyers with expertise in human rights law, began by reviewing and analyzing the law prohibiting discrimination in employment and in the provision of goods, services, accommodation and facilities customarily available to the public. Based on that review and analysis, training materials were prepared that encapsulated the key points that participants would need to cover in order to understand the duty to accommodate. Training materials consisted of a PowerPoint presentation, copies of the relevant legislation and case studies applying the law in the employment and business context. The training materials were prepared so that they could be adapted to train participants with varying degrees of knowledge and expertise on the subject.

The ACLRC then presented the training materials at workshops. A participatory approach to learning was incorporated, which is based on the assumption that much of the content comes from the learners, and that the workshop serves as the framework for drawing out this content. The workshops consisted of a combination of lectures by ACLRC human rights educators and guest speakers, small group work and plenary discussions. The emphasis was on the practical application of the subject matter.

Learner Selection Process and Learner Profile

Participants in the workshops came from a wide cross-section of businesses, professions, employers and employees across Alberta.

A total of approximately 580 individuals attended training over a period from May 2017 to December 2018.

The first group of participants was a small group consisting of business owners, employers and employees who registered for the rollout workshop delivered in Lethbridge, Alberta on May 25, 2017.

The second group of participants was the largest and consisted of owners, managers and registry agents of Alberta Registry Offices who were invited by the AARA (Alberta Association of Registry Agents) to attend workshops given by the ACLRC across Alberta in May and September 2018.

The third group of participants consisted of investors and professionals newly immigrated to Canada that attended workshops given by the ACLRC during 2018, at the request of the Calgary Catholic Immigration Society.

Annex B is a table showing the dates and locations of workshops and the approximate number of participants at each workshop.

Trainers, Resource People and Experts

The lead trainer for each of the workshops was Heather Forester. Ms. Forester is a lawyer and has been a member of the Alberta bar for over 30 years, practicing in a number of areas over that time. She has worked as an ACLRC contract researcher and as the ACLRC's research associate for approximately 10 months. In January 2018, Heather became an ACLRC human rights educator.

Ms. Luhtanen is a lawyer and has been a member of the Alberta bar for 18 years. She was a human rights educator with the ACLRC for 15 years. She also was a Tribunal Member of the AHRC for seven years. In January 2018, Ms. Luhtanen was appointed as senior legal counsel to the Chief of Commission and Tribunals at the AHRC.

Guest speakers, Angela Reid and Holly Tomm, participated in the preparation of training materials and the training sessions for the AARA workshops. These workshops focused on the duty of employers, businesses and service providers to accommodate the needs of members of the LGBT community, an area in which Ms. Reid and Ms. Tomm have substantial expertise.

Angela Reid has been a part of the Trans Equality Society of Alberta (TESA) for several years, focusing on legal and medical power structures that affect trans person's lives. In 2014 she was able to successfully argue for a fully self-declared Canadian passport, years before passport regulations were changed to allow this. She works as an electronics technologist for a major oilfield services company.

Holly Tomm is a Board Member/Director and Secretary for TESA. Holly has been an active advocate in the transgender community for several years and has made presentations to various youth groups, university classes and fundraising events on behalf of that community. Holly is employed as the Business Development Lead at Alberta's largest independent chemical solution provider to the hospitality industry.

Training Materials

Participants in the Lethbridge workshops were provided with a USB containing the PowerPoint presentation given at the workshop as well as supplementary materials including copies of applicable legislation and case studies. Annex C is a copy of the materials that were provided to participants at the Lethbridge workshop.

Participants in the AARA workshops were provided with a copy of the PowerPoint presentation given at the workshops. The materials presented to participants of the AARA workshops were substantially similar to those provided at the rollout workshop in Lethbridge. However, the materials were adapted to focus on the duty to accommodate the needs of members of the LGBT community. Annex D is a copy of the materials provided to the AARA for use by their members.

The materials presented to the participants in the CCIS workshops were substantially similar to the materials provided to participants in the Lethbridge and AARA workshops but were adapted to provide an overview of the law on human rights in the workplace, including the duty to accommodate. Annex E is a copy of the materials presented to the CCIS participants.

PART II. TRAINING SESSION EVALUATION

Evaluation Methodology

This Report uses Kirkpatrick’s four-level evaluation model¹⁰ (Kirkpatrick Model), one of the two models of educational evaluation recommended in the EQUITAS-OHCHR Handbook. The Kirkpatrick Model sets out four evaluation measures and the corresponding tools for measuring them and is summarized in Table 2.1 below.

Level	Measure	Evidence/Tool
1:	Participant Reaction	End-of-training Participant Questionnaires <ul style="list-style-type: none"> • Brief Evaluation Form • Daily Evaluation Form
2:	Participant Learning	Brief and Daily Evaluation and Facilitator Observations
3:	Knowledge Transfer	Multiple: surveys/interviews of participants and managers <ul style="list-style-type: none"> • Pre-Training Baseline Survey • Post-Training Baseline Survey for Senior Managers and Successors
4:	Organizational Impact	Multiple: pre/post baseline survey comparisons, measures and interviews with key stakeholders <ul style="list-style-type: none"> • Post-Training Focal Point Checklist for Action

Table 2.1: Kirkpatrick’s Four Levels of Training Evaluation

Level 1 – Participant Reaction

This first measure aims to determine participants’ general level of satisfaction with the learning event. The intention in obtaining this type of feedback is to ensure that the program is revised so that it can be continually improved to better reflect the needs of the participants on an ongoing basis.

Level 2 - Participant Learning

This level of evaluation is conducted to understand how much participants have actually learned as a result of having attended the training. The assessment at this stage should

¹⁰ Kirkpatrick, D.L., *Evaluation Training Programs*. (2006), Berrett-Koehler Publishers, Inc.: CA.

be related to the objectives of the training. Pre/post tests tend to be one of the preferred methodologies for assessing the degree of learning that has taken place in the “classroom” setting.

Level 3 - Knowledge Transfer

This measure is intended to determine how learning from the training event has been applied to the workplace or business.

Questionnaires to measure knowledge transfer are designed to obtain a better understanding of how activities undertaken by participants in their organizations prior to their participation in the training have changed.

Two questionnaires are used to measure knowledge transfer. The first questionnaire asks participants to complete a survey, which is used as a needs assessment to establish a general baseline or snapshot of the reality before training occurred (baseline survey). The second questionnaire is then designed to identify the extent to which participants are able to put their training into practice (post-training survey). The baseline survey and post-training survey are compared to determine whether the participants assess an improvement in their knowledge, skills and activities compared to their assessment under the baseline survey.

Level 4 - Organizational Impact

Evaluation at this level is intended to measure the impact on the participant’s work environment and includes analysis of some external factors that might contribute to good or poor results.

Key Findings/Results

The Kirkpatrick Evaluation Model is intended to incorporate evaluation throughout all stages of training, including during training design, delivery and follow-up. However, because this evaluation model was identified and applied after the Duty to Accommodate Training was designed and delivered, it was not possible to incorporate all four levels of measurement recommended. Evaluation was limited to a Stage 1 measurement of participant reaction collected from participants in feedback forms completed and collected at the end of each training session. However, Kirkpatrick’s Evaluation Model could serve as a useful model for any follow-up evaluation that is recommended, assuming it is feasible, given monetary and time constraints. It may also serve as an evaluation model for future HRE provided by the ACLRC.

Level 1 - Participant Reaction

Overall, participant reaction from those participants who completed the feedback form at the conclusion of training was positive. All participants rated the experience as either good or excellent. Written comments on the evaluations were also positive, indicating that the participants appreciated the learning opportunity.

All participants at the Lethbridge presentation who provided feedback rated the experience as excellent. Half of the participants at the CCIS training rated the training as good and half as excellent. Unfortunately, the AARA representatives who collected the feedback forms from the AARA training have not been able to provide the feedback forms.

The feedback represents a variety of perspectives regarding what was experienced. At least two factors can be attributed to these perspectives. First, different participants have different needs and are at different stages of awareness and implementation. Second, participants have different learning styles. This indicates that the training should be designed with diverse learner needs in mind.

All participants who completed evaluation forms noted that they found the information helpful. Participants also offered recommendations for improving the workshop, summarized below:

- Send participants key documents to read in advance of the training.
- Use more case studies.
- Provide more detailed scripts or steps that employers and employees can use to work through the stages of the accommodation process..
- Provide time for participants to ask questions and provide examples of issues faced in their businesses and workplaces.
- Provide more information on freedom of expression, where to obtain legal assistance, and other human rights topics.
- Allot more time for the workshops.
- Allot more time for interaction.

In addition to the above recommendations, there was a recurring theme noted in the feedback provided directly to trainers. Participants thought more training time was needed both at the initial training events and while they were implementing learning in their organizations.

Many participants felt that the learning event would have benefited from more time for a probing review of course and resource materials, discussion of case studies, in-depth exchange of best practices and challenges, and to discuss and develop action plans. On the other hand, there were also a few participants who suggested less training time was needed. This highlights the opportunity to better position the focus and agenda for

future workshops. There are some participants, for example, who required less foundational information while others needed more. Managing the diverse knowledge and expertise of participants is a challenge.

Overall, most of the Level-1 participant feedback appears to be suggesting changes pertaining to program content and delivery. In addition to a more hands-on experience, participants also requested more time to digest the information prior to attending the training and more post-training support to establish processes and structures incorporating the training. In essence, the more the learning experience can be customized and personalized for specific employees, employers and businesses, the more likelihood there will be a smoother transfer of knowledge in the workplace.

Level 2 - Participant Learning

The trainers assessed the degree of learning taking place on a classroom-by-classroom basis and adapted the training to meet the needs of the participants. However, it is important to acknowledge that participant learning was not otherwise evaluated.

Level 3 - Knowledge Transfer and Level 4 - Organizational Impact

Information and feedback on the amount of knowledge transfer that took place from the classroom to the workplace, as well as organizational impact, was not evaluated.

Analysis and Interpretation of Results

There is little data upon which to analyze and interpret the results of the training. It is therefore not possible to complete this stage of the evaluation. This can be attributed to several factors.

One contributing factor is that at the time the training was designed and presented, the only evaluation measurement considered and used was the Level 1 participant reaction evaluation. Further, the only evaluation tool used was a very general feedback form. Second, the design and delivery of the training did not integrate evaluation goals and objectives as part of the process. Third, only a small percentage of the participants completed the evaluation feedback forms. This low response rate could be attributed to the fact that participants did not receive the feedback forms until the training was completed and did not have time to complete the forms at this time.

PART III CONCLUSIONS AND RECOMMENDATIONS

Based on the evaluation of the Training under Part II, it is not possible to provide a complete report on the effectiveness of the training, other than that the participant reactions of those who provided feedback was overall positive.

This Report makes the following recommendations:

1. Conduct pre-training evaluations to assess the training needs of participants and allow trainers to customize the training to fit participant knowledge and experience.
2. Provide participants with training materials prior to training to allow them to become more familiar with the subject matter.
3. Adopt a model to evaluate HRE training and integrate evaluation into all components of the training process, including in training design, delivery and follow-up. One recommended evaluation process is the Kirpatrick Model used to evaluate the subject Duty to Accommodate Training.
4. Increase training time to allow for more class discussion and interaction.

ANNEXES

- Annex A: Alberta Human Rights Education and Multiculturalism Program Proposal
- Annex B: Schedule of the training sessions and number of participants
- Annex C: Training materials provided to participants at the Lethbridge Training
- Annex D: Training materials provided to participants of the AARA Training
- Annex E: Training materials provided to participants of the CCIS Training
- Annex F: Blank ACLRC feedback form

ANNEX A Omitted (see funding application)

ANNEX B

DUTY TO ACCOMMODATE TRAINING - LEARNER PROFILE

EMPLOYERS AND SMALL BUSINESS OWNERS - LETHBRIDGE AND AREA			
Presentation Date	Location	Presentations	No Participants
2017, May 7	Lethbridge	One 3-hour presentations	9-10 approximately*

*2 participants from Chinook Arch Library, 2 from Peterbilt Trucks, 2 small business owners and 3 unknown

OWNERS, MANAGERS AND AGENTS OF ASSOCIATION OF ALBERTA REGISTRY AGENTS (AARA)			
Presentation Date	Location	Presentations	No Participants
2018, May 7	Lethbridge	Two 2-hour presentations	90 approximately
2018, May 8	Calgary	Two 2-hour presentations	100 approximately
2018, May 9	Red Deer	Two 2-hour presentations	100 approximately
2018, May 10	Edmonton	Two 2-hour presentations	100 approximately
2018, September 11	Calgary	One 1-hour presentation	100 approximately

NEW IMMIGRANT PROFESSIONALS AND INVESTORS TRAINING AT CALGARY CATHOLIC IMMIGRATION SOCIETY			
Presentation Date	Location	Presentations	No Participants
2018, May 23	Calgary	1.5 hour presentation	20 approximately
2018, August 24	Calgary	1.5 hour presentation	20 approximately
2018, October 31	Calgary	1.5 hour presentation	20 approximately
2018, November 31	Calgary	1.5 hour presentation	20 approximately

Annex C Omitted (see presentations)

ANNEX D Omitted (see presentations)

ANNEX E Omitted (see presentations)

ANNEX F



Alberta Civil Liberties Research Centre

Please give us feedback how we did

Thank you for attending our event. In order to plan for future events we would appreciate it if you could fill out the form. If you have any questions please contact us either by email: aclrc@ucalgary.ca or phone: 403 220-2505. Thanks!

1. How did you find out about this event?

Email Poster Facebook Twitter Friend/ Staff

2. What other topics would you like us to have for our future events?

3. How could the session be improved?

4. Any other comments?

5. Would you like to be informed of future events? If yes, please write your email add here: **(PRINT CLEARLY)**

NAME:

EMAIL:

6. How would you rate this event overall? Please check one.

Excellent Good Fair

This information is being collected to evaluate, develop, promote, and report on our human rights education program, but your name will not be used.