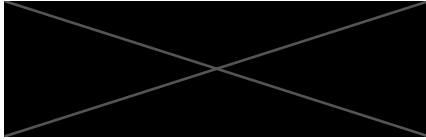




PROTECTED
A-2023-00030 / AT



Dear 

I am writing in response to your access to information request received on January 24, 2024, in reference to the following:

“Please provide all instructions, procedures, guidelines or memoranda of best practices related to the processing and/or consideration of mask-related complaints issued to or within the CHRC in 2020, 2021 and 2022.”

Enclosed you will find the records that respond to your request -- exemptions have been applied pursuant to sections 23 of the *Access to Information Act*. A copy of the relevant section is attached.

Please be advised that you may complain to the Information Commissioner concerning the processing of your request within 60 days of the receipt of this notice. In the event you decide to avail yourself of this right, your notice of complaint should be addressed to the following:

Ms. Caroline Maynard
The Office of the Information Commissioner of Canada
30 Victoria Street
Gatineau, Quebec K1A 1H3

Should you have any questions or concerns regarding your request, do not hesitate to contact Alina Tudosa, ATIP Analyst, Access to Information and Privacy Unit, at 1-888-214-1090 or 343-571-2694 or by email at atip.aiprp@chrc-ccdp.gc.ca. Please quote the file number listed above in all correspondence pertaining to this request.

Yours sincerely,

Natalie Dagenais
Director General
Corporate Management Branch

Enclosure: s. 23,
9 pages

ACCESS TO INFORMATION ACT

Protected information — solicitors, advocates and notaries

23 The head of a government institution may refuse to disclose any record requested under this Part that contains information that is subject to solicitor-client privilege or the professional secrecy of advocates and notaries or to litigation privilege.

R.S., 1985, c. A-1, s. 23; 2019, c. 18, s. 10

Vaccination policies and human rights: Frequently asked questions for employers and employees

The purpose of this FAQ guide is to answer commonly asked questions about proof of vaccination policies for federally-regulated employers and employees.

Context

Vaccination is the most important public health tool at our disposal to reduce the risk of COVID-19. It is important that those who can get the vaccine do so – to protect themselves, their colleagues, families, friends and communities.

The Government of Canada announced in August that vaccination will be required across the federal public service.

The latest details on the implementation of the vaccination requirement state that federal public servants, including members of the RCMP, will be required to confirm their vaccination status by October 29, 2021. Those who are unwilling to disclose their vaccination status or to be fully vaccinated will be placed on administrative leave without pay as early as November 15, 2021.

Crown corporations and separate agencies are being asked to mirror this policy. Similar directives requiring vaccination will be issued by the Canadian Armed Forces.

Employers in the federally regulated air, rail and marine transportation sectors will have until October 30, 2021, to establish similar vaccination policies that ensure employees are vaccinated.

As of October 30, travellers departing from Canadian airports or Canadian rail systems will be required to be fully vaccinated.

Do vaccination requirements violate human rights principles?

- No. Rights are not absolute. Reasonable limits can be placed on our rights when it applies to public health and safety.

Is requiring vaccination for federally-regulated employers and employees a discriminatory practice?

- No. Requiring that an individual be vaccinated to work or travel is not a discriminatory practice under the Canadian Human Rights Act.

- Vaccination requirements are not a discriminatory practice because they are intended (and are necessary) to protect public health and safety.

Is there a Duty to Accommodate requirement for people who cannot receive a vaccine?

- Employers have a duty to accommodate only those people who are unable to receive a vaccine for reasons relating to a prohibited ground of discrimination under the Canadian Human Rights Act.
- Employers and service providers will need to explore reasonable options for accommodating such people, unless doing so would cause undue hardship to the employer or service provider considering health, safety and cost.

Is requiring mask usage for federally-regulated employers and employees a discriminatory practice?

- No. Requiring that an individual wear a mask to work or travel is not a discriminatory practice under the Canadian Human Rights Act.

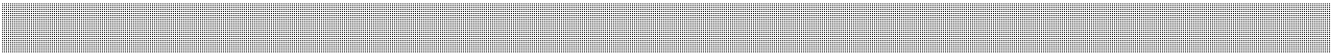
Are mask exemption cards claiming to be produced by the Canadian Human Rights Commission legitimate?

- No. Fake medical exemption cards are being circulated or sold online, claiming to exempt the user from needing to wear a mask. Some of these cards claim to be issued by the Canadian Human Rights Commission. These cards are fake. The Commission has not and would not produce posters or cards claiming that the cardholder has an exemption from wearing a face mask in closed public places. Canadians should not share or use these fraudulent cards.

For complaints or more information

- Public servants can discuss concerns about vaccination and masking requirements with their manager or union representative. Complaints should be made through their unions.
- As of October 30, travellers departing from Canadian airports or federally-regulated rail systems will be required to be fully vaccinated. Travellers who wish to file complaints about vaccination requirements should contact the Canadian Transportation Agency.
- The full vaccination policy, released by the Treasury Board Secretariat, can be found here. If the TBS guidance does not apply to your employer, consult your HR division for a copy of your organization's policies.

From: Phillips, Valerie (CHRC/CCDP)
Sent: Tuesday, December 21, 2021 9:40 AM
To: Marie-Josée Frenette
Cc: Masters, Jamie (CHRC/CCDP); Bolton, Stephanie (CHRC/CCDP); Osborne-Brown, Sheila (CHRC/CCDP); Fedoruk, Daphne (CHRC/CCDP)
Subject: RE: Processing Mask Complaints



Solicitor client privileged

----- Original message -----

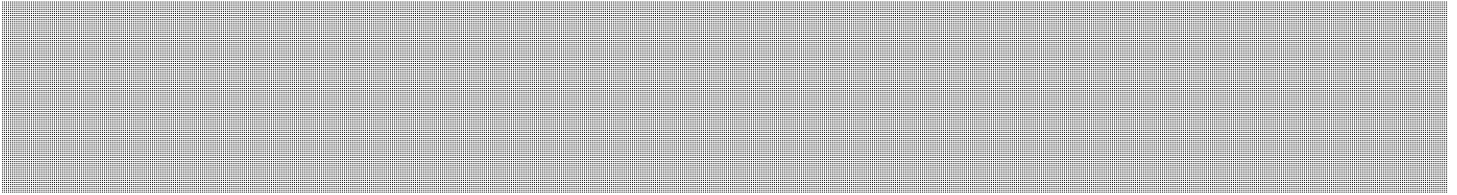
From: Marie-Josée Frenette <marie-josee.frenette@chrc-ccdp.gc.ca>
Date: 2021-12-21 8:36 a.m. (GMT-05:00)
To: Valerie Phillips <valerie.phillips@chrc-ccdp.gc.ca>, Ceilidh Snider <ceilidh.snider@chrc-ccdp.gc.ca>
Cc: Jamie Masters <jamie.masters@chrc-ccdp.gc.ca>, "Bolton, Stephanie (CHRC/CCDP)" <Stephanie.Bolton@chrc-ccdp.gc.ca>, Sheila Osborne-Brown <sheila.osborne-brown@chrc-ccdp.gc.ca>, Daphne Fedoruk <daphne.fedoruk@chrc-ccdp.gc.ca>
Subject: RE: Processing Mask Complaints

Hi,



Marie-Josée

From: Valerie Phillips <valerie.phillips@chrc-ccdp.gc.ca>
Sent: Sunday, December 19, 2021 7:10 PM
To: Ceilidh Snider <ceilidh.snider@chrc-ccdp.gc.ca>; Marie-Josée Frenette <marie-josee.frenette@chrc-ccdp.gc.ca>
Cc: Jamie Masters <jamie.masters@chrc-ccdp.gc.ca>; Bolton, Stephanie (CHRC/CCDP) <Stephanie.Bolton@chrc-ccdp.gc.ca>; Sheila Osborne-Brown <sheila.osborne-brown@chrc-ccdp.gc.ca>; Daphne Fedoruk <daphne.fedoruk@chrc-ccdp.gc.ca>
Subject: RE: Processing Mask Complaints
Privileged
Hi Ceilidh,



Thanks!
Valerie

From: Ceilidh Snider <ceilidh.snider@chrc-ccdp.gc.ca>

Sent: Saturday, December 18, 2021 2:42 PM

To: Valerie Phillips <valerie.phillips@chrc-ccdp.gc.ca>; Marie-Josée Frenette <marie-josee.frenette@chrc-ccdp.gc.ca>

Cc: Jamie Masters <jamie.masters@chrc-ccdp.gc.ca>; Bolton, Stephanie (CHRC/CCDP) <Stephanie.Bolton@chrc-ccdp.gc.ca>; Sheila Osborne-Brown <sheila.osborne-brown@chrc-ccdp.gc.ca>; Daphne Fedoruk <daphne.fedoruk@chrc-ccdp.gc.ca>

Subject: Processing Mask Complaints

Protected: Solicitor-Client Privilege

Hi Valerie,

Further to the December 16, CSC meeting,

What do you think?

Thank you,

K.E. Ceilidh Snider

(she/her/elle)

Legal Counsel

Legal Services Division

Canadian Human Rights Commission

Avocate

Division des services juridiques

Commission canadienne des droits de la personne

613-222-5146

ceilidh.snider@chrc-ccdp.gc.ca

Subject:

GABARIT DE DEMANDE DE BILLET MÉDICAL

Ébauche de modèle de courriel de demande de billet médical pour les plaintes liées à la Covid-19

Rédigé le 28 janvier 2022

[Bonjour XXXX]

La Commission canadienne des droits de la personne (la Commission) a reçu et examiné votre plainte n° 202XXXXX. Vous alléguiez être victime de discrimination fondée sur le handicap en rapport avec les exigences du défendeur en matière de [port du masque/vaccination/dépistage] concernant la Covid-19.

La *Loi canadienne sur les droits de la personne* prévoit que les personnes doivent démontrer qu'elles ont des motifs raisonnables de croire qu'elles ont été victimes de discrimination fondée sur un motif de distinction illicite. La *Loi canadienne sur les droits de la personne* protège les besoins liés au handicap. En vertu de la loi, la Commission a uniquement le pouvoir d'accepter les plaintes qui répondent aux exigences minimales énoncées dans la *Loi canadienne sur les droits de la personne*.

En déposant votre plainte, vous autorisez la Commission à recueillir les informations de votre dossier médical nécessaires au traitement de votre plainte. Veuillez fournir une note de votre médecin praticien confirmant que vous avez un handicap qui ne vous permet pas de [porter un masque] pour la COVID-19. La nature de votre handicap n'est pas requise. Bien qu'un défendeur puisse ne pas demander cette note médicale dans le cadre de la prestation du service que vous avez demandé, étant donné que le processus de la Commission est un processus officiel et juridique, la Commission souhaite s'assurer dès le départ, en vertu de l'autorité que lui confère l'article 40 de la *Loi*, qu'il existe des renseignements pouvant justifier la mesure d'adaptation que vous avez demandée au défendeur (supprimer si cela n'est pas pertinent). La Commission ne peut pas accepter votre plainte sans la note médicale demandée.

Veuillez fournir la note médicale demandée avant le [date = un mois à compter de la date du courriel]. Si cette note n'est pas fournie à cette date et qu'aucune autre disposition mutuellement acceptable n'est prise, votre plainte ne sera pas acceptée et la Commission fermera votre dossier.

Nous vous remercions de votre coopération pour permettre à la Commission de traiter efficacement votre dossier.

Subject:

TEMPLATE REQUESTING MEDICAL NOTE

Draft Template Email Requesting Medical Note for Covid-19 Complaints

Prepared January 28, 2022,

[Salutation XXXX]

The Canadian Human Rights Commission (Commission) has received and reviewed your complaint #202XXXXX. You allege discrimination based on disability in relation to the respondent's Covid-19 [mask/vaccine/testing] requirement(s).

The *Canadian Human Rights Act* says that individuals must show that they have reasonable grounds for believing that they have been discriminated against based on a protected ground of discrimination. The *Canadian Human Rights Act* protects disability-related needs. The Commission only has the legal authority to accept complaints that meet the minimum requirements set out in the *Canadian Human Rights Act*.

When you submitted your complaint, you authorized the Commission to collect information from your medical file necessary to process your complaint. Please provide a note from your medical practitioner confirming that you have a disability that does not permit you to [wear a mask] for COVID-19. The nature of your disability is not required. While a respondent may not request this medical note in the provision of the service you requested, given that the Commission's process is a formal, legal process, the Commission wishes to ensure from the onset, based on our authority under section 40 of the Act, that there is information that can substantiate the need for the accommodation you requested by the respondent (remove if not pertinent). The Commission cannot accept your complaint without the requested medical note.

Please provide the requested medical note by [date = one month from date of email]. If this note is not provided by that date and no other mutually acceptable arrangement is made, your complaint will not be accepted and the Commission will close your file.

Thank you for your cooperation in enabling the Commission to process your file effectively.



Template instructions: If sending by email, please make sure that the subject line includes file number, Complainant name and respondent name (for accessibility reasons). If sending by mail, please make sure all attachments are included in email to the Registrar and make sure no text falls in the footer shading. Please delete all instructions.

Letter from the CHRC – Request for Medical Note for Covid-19 Complaints

PROTECTED

File number: 00000000 --- complainant name vs. respondent **OR**

Inquiry number: I0000000 --- your inquiry about respondent

Date: January XX, XXXX

Complainant information:

Dear Full Name of C:

The Canadian Human Rights Commission (Commission) has received and reviewed your complaint file/inquiry #. You allege discrimination based on disability in relation to the respondent's COVID-19 mask/vaccine/testing requirement(s).

The Canadian Human Rights Act says that individuals must show that they have reasonable grounds for believing that they have been discriminated against based on a protected ground of discrimination. The Canadian Human Rights Act protects disability-related needs. The Commission only has the legal authority to accept complaints that meet the minimum requirements set out in the Canadian Human Rights Act.

When you submitted your complaint, you authorized the Commission to collect information from your medical file necessary to process your complaint. Please provide a note from your medical practitioner confirming that you have a disability that does not permit you to wear a mask/vaccine/testing for COVID-19. The nature of your disability is not required in this note.

While providing the service you requested, a respondent may not request this medical note. However, given that the Commission's process is a formal, legal process, the Commission wishes to ensure, based on our authority under section 40 of the Act, that there is information that can substantiate the need for the accommodation you requested by the respondent (remove if not pertinent). The Commission cannot accept your complaint without the requested medical note.

Please provide the requested medical note by **date = one month from the date of email**. If you do not provide this note by that date and do not make any other mutually acceptable arrangement, the Commission will not accept your complaint and will close your file.

You can submit your medical note to us by email at complaint.plainte@chrc-ccdp.gc.ca.

If you experience technical issues when sending us your information by email, contact us by phone. You may reach us at one of the following numbers: Toll-free 1-888-214-1090, local: 613-995-1151, or TTY 1-888-643-3304.

You may also write to us at:

Canadian Human Rights Commission
Complaints Services
344 Slater Street, 8th Floor
Ottawa, Ontario K1A 1E1
Fax: 613-996-9661

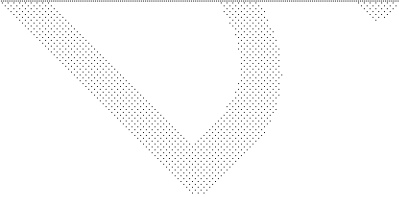
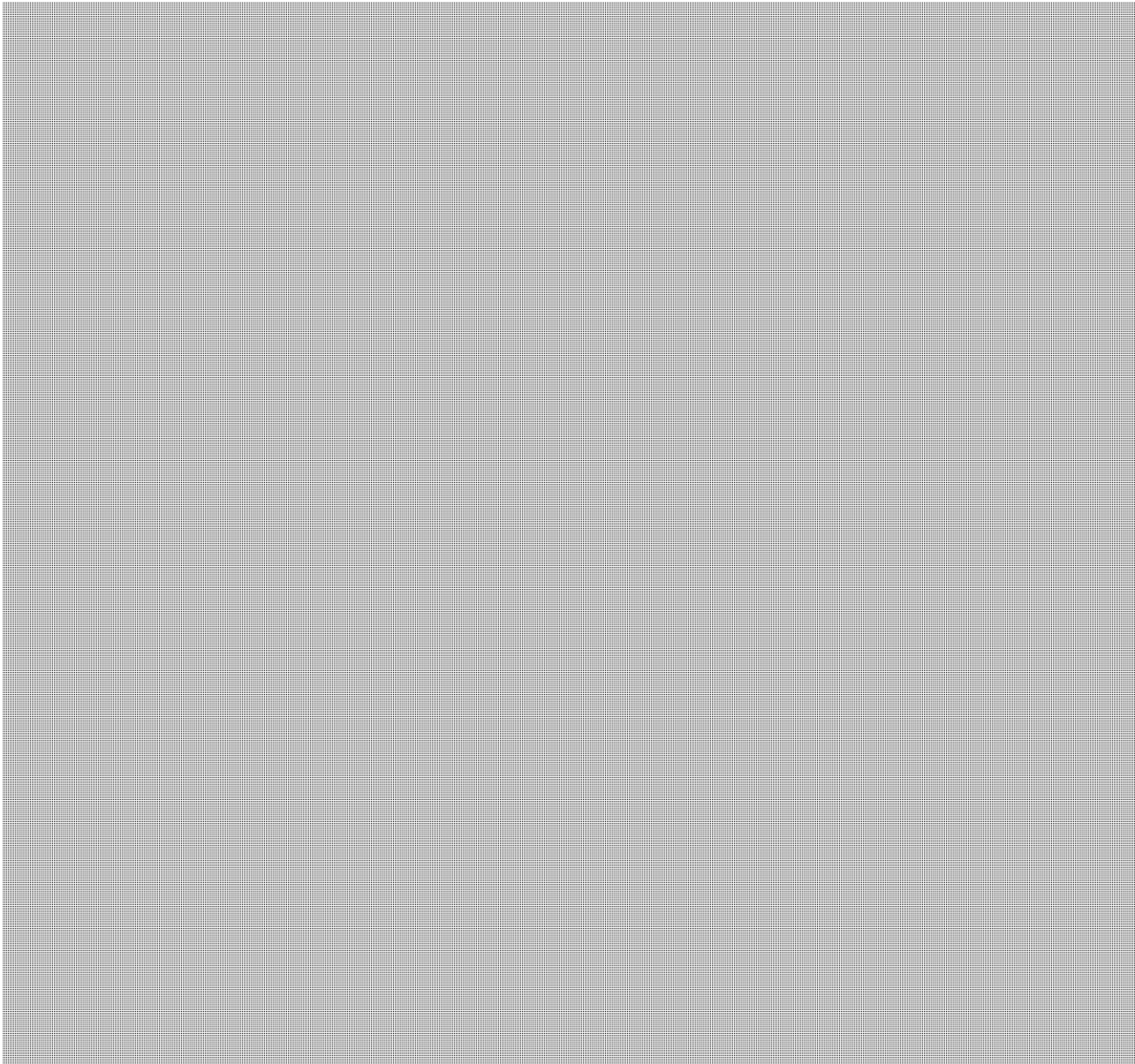
Thank you for your cooperation in enabling the Commission to process your file effectively.

Sincerely,

Complaints Services

Canadian Human Rights Commission

The Canadian Human Rights Commission and its employees acknowledge Canada as the land of the First Peoples (First Nations), Inuit & Métis. We therefore acknowledge and honour the traditional territories on which our offices now stand. We pay homage to the Indigenous peoples, past, present and future who continue to work, educate and contribute to the strength of this country. Thank you for the privilege of working, learning, and living in this place.



Page 10
is not reviewed
n'est pas révisée