

Workplace Accommodation Guidelines



University
of Windsor

Office of the Vice-President, Human Resources

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Workplace Accommodation

Workplace accommodation refers to the University's obligation under the Ontario Human Rights Code to prevent and remove barriers and provide reasonable accommodation to the point of undue hardship. The principle of accommodation applies to all grounds of the Code but within the context of employment most accommodation needs relate to disability, religion and family status.

Workplace accommodation may involve a service, an adaptation or adjustment in the work environment to enable an individual equal opportunities and full participation in employment activities without discrimination. The principle of accommodation involves three factors: dignity, individualization and inclusion. The Ontario Human Rights Commission (2008) describes these factors as follows:

- **Dignity:** Persons must be accommodated in a way that most respects their dignity, including their privacy, confidentiality, comfort and autonomy.
- **Individualization:** There is no set formula for accommodation. Each person's needs are unique and must be considered afresh when an accommodation request is made. A solution may meet one person's requirements but not another's, although many accommodations will benefit many other people with similar needs.
- **Inclusion:** Achieving integration and full participation requires barrier-free and inclusive design and removing existing barriers. Preventing and removing barriers means all persons should have access to their environment and face the same duties and requirements with dignity and without impediment.

Given these factors, each accommodation request must be considered on an individual, case-by-case basis in order to determine the most reasonable and appropriate accommodation based on the employee's individual circumstances. The process of identifying an appropriate workplace accommodation is a consultative process involving the University, the individual, the union/association, if applicable and any other party that may need to be engaged, such as the employee's physician, a third-party medical consultant and/or a religious leader.

The most appropriate accommodation will be the one that most promotes inclusion and full participation, and effectively addresses any systemic issues (OHRC, 2008).

This document provides an overview of the workplace accommodation process including the responsibilities of Human Resources, supervisors, employees and the union/association. Given the current situation, it also highlights examples of potential accommodation needs within the context of the COVID-19 pandemic.

It is important to note that there may be variations in the way the guidelines/steps outlined in this document are implemented due to the need to respond on a case-by-case basis.

In order to maintain the accuracy and relevance of this document, these guidelines will be reviewed annually, and revisions will be incorporated as necessary.

Examples of Workplace Accommodation Options

Recognizing that workplace accommodation must be informed by the specific circumstances of each employee, workplace accommodation options may include but are not limited to:

- modification of job duties,
- workplace/process modifications,
- provision of technical aids,
- changes to scheduling or hours of work,
- counselling and referral services, etc.

Responsibilities of Human Resources

The workplace accommodation process is facilitated by Human Resources. Key responsibilities include but are not limited to:

- Manage the accommodation process in a manner that respects the dignity and privacy of the individual and their right to confidentiality.
- Engage required parties in the process and keep them informed.
- Provide guidance to the parties throughout the process.
- Seek, when required, additional information from the employee and/or experts to confirm individual circumstances and/or determine appropriate information.
- Work collaboratively with supervisors, employees, union/association and other parties as required, to identify reasonable accommodation options and establish an accommodation plan.
- Document the accommodation request received and actions taken.

Privacy and Confidentiality

Requests for accommodation may involve disclosing private or highly sensitive information. The University will maintain the confidentiality of information related to an accommodation request and will only disclose the information with the consent of the employee.

Responsibilities of Supervisors

Individuals with administrative and supervisory responsibilities such as Deans, Executive Directors, Directors and Managers typically are the first contact for employees requesting accommodation. Key responsibilities include but are not limited to:

- Receive requests for accommodation.
- Contact Human Resources to initiate the accommodation process as soon as the need for an accommodation is communicated by the employee.
- Explore and evaluate all reasonable options for addressing the accommodation needs in conjunction with Human Resources.
- Protect the right for privacy and maintain confidentiality. Share only necessary information during the accommodation process.
- Actively participate in the accommodation process and accommodation planning meetings.
- Participate in the monitoring/evaluation of the accommodation plan to ensure the accommodation measures implemented are working as intended.

Responsibilities of Employees

Key responsibilities of employees include but are not limited to:

- Communicate their workplace accommodation(s) needs to their immediate supervisor and/or HR at their earliest opportunity.
- Cooperate throughout the process by providing relevant and appropriate information to support the request for accommodation.
- Actively participate in the accommodation process in good faith, including participation in the discussions to find an appropriate and reasonable solution.
- Cooperate with experts whose assistance or consultation may be required for the University to effectively manage the accommodation process.
- Consider all accommodation options brought forward by the University that effectively respond to the request for accommodation while recognizing that the outcome may not be the preferred accommodation, but one that is reasonable.
- Keep the immediate supervisor and/or Human Resources advised of changes in their individual circumstances.

Responsibilities of Unions/Association

In certain circumstances, the union/association representative may initiate the accommodation request on behalf of the employee. Key responsibilities include but are not limited to:

- Actively participate in the accommodation process and fully cooperate to find reasonable accommodations.
- Protect the privacy of the individual requesting the accommodation and maintain confidentiality.
- Support reasonable accommodation options.

Overview of the Workplace Accommodation Process

The chart below provides a general overview of the workplace accommodation process. Recognizing that a reasonable workplace accommodation must be informed by the circumstances present in each individual case, there may be variations in the way that the steps/guidelines are applied, including consideration for an interim accommodation plan.

Step	General Overview
Request for Accommodation is Made	<p>Employees, whenever possible should make requests for accommodation in writing to their immediate supervisor. The accommodation request should indicate the reason an accommodation is required, including enough information to confirm the existence of a need for accommodation.</p> <p>Upon receiving the request, the supervisor contacts Human Resources to initiate and facilitate the accommodation process. Requests for accommodation will be dealt with in a timely manner.</p>
Gathering and Sharing Information to Support Accommodation Planning	<p>When required, Human Resources will seek any additional information from the employee to help define the accommodation needs and identify possible solutions.</p> <p>Where expert assistance is required, Human Resources will work cooperatively with the employee to obtain expert advice. The goal of these requests is to fully understand the specific circumstances of the employee in order to find the most effective, practical and reasonable accommodation.</p> <p>In preparation for the accommodation planning meetings, Human Resources will work with the supervisor to explore potential accommodation options. This may include assessing the work environment, determining workplace standards and essential duties of the position.</p>
Accommodation Planning Meetings	<p>Human Resources will engage the required parties in the accommodation planning process which will include the employee requesting the accommodation, their supervisor, a union representative if applicable and may include other experts as may be deemed appropriate in the circumstance. Recognizing that the accommodation process is a shared responsibility, it is expected that everyone involved share information and work cooperatively towards identifying potential accommodation solutions. Appropriate accommodation typically results from effective and active communication, creative problem solving and flexibility.</p> <p>An Accommodation Plan will emerge from these discussions which will be documented and agreed upon by the parties involved. Typically, the plan will include: the employee's individual circumstances, the most appropriate accommodation identified, timelines for providing the accommodation, criteria for determining the success of the accommodation plan and process for reviewing and re-assessing the accommodation plan.</p>
Implementation of the Accommodation Plan and Record Keeping	<p>Implement the actions articulated in the accommodation plan.</p> <p>The University will retain the following information emerging from the accommodation process: accommodation request, any documents provided by the employee or experts, notes from the meetings, accommodation alternatives explored, and the accommodation provided (accommodation plan).</p>
Evaluation/Monitoring of the Accommodation Plan	<p>The employee, supervisor, Human Resources and the union/association, if applicable, will monitor the success of the accommodation plan and identify any changes that may need to be made.</p>

Examples of Accommodation Requests within the Context of the COVID-19 Pandemic

As discussed, the principle of accommodation applies to all grounds of the Code but within the context of employment and the current COVID-19 pandemic, accommodation requests may include, but are not limited to:

- Unavailable childcare options and/or school closures.
- Inability of a family member to provide childcare because they are ill or in self-isolation.
- Care for a family member that is affected by COVID-19.
- The employee's inability to send their child to daycare/school due to an underlying health condition (immunocompromised, medically vulnerable) of the child, employee and/or another family member that may make the employee/child/family member more susceptible to an adverse health outcome should they contract COVID-19.
- The employee's underlying health condition (immunocompromised, medically vulnerable) that may make the employee more susceptible to an adverse health outcome should they contract COVID-19.
- A family member's (spouse, partner, parent) underlying health condition that may make the family member more susceptible to an adverse health outcome should they contract COVID-19.

Recognizing that each accommodation request must be considered on an individual, case-by-case basis, this document does not include specific accommodation options for addressing COVID-19 accommodation requests. The most reasonable and appropriate accommodation based on the employee's individual circumstances will emerge from the process outlined on page 3 of this document.

An employee's fear of potential exposure to the virus does not constitute grounds for accommodation. Under the Occupational Health and Safety Act, employees have a right to refuse unsafe work. Work refusals should not be based on fear alone but on the employee's reasonable belief that the University has not taken the necessary measures to protect employee health and minimize the potential exposure to the hazard (COVID-19). As with any workplace hazard, the University is responsible for taking every reasonable precaution to protect the health and safety of employees. Supervisors and employees are encouraged to become familiar with the health and safety procedures with respect to work refusals, which can be found on the Human Resources website at: <https://www.uwindsor.ca/humanresources/safety/safetytopics/workrefusal>

To learn about what the University is doing to keep everyone on campus safe, visit the Return to Campus website at: <https://www.uwindsor.ca/returntocampus/310/health-safety>. Supervisors are also encouraged to share with employees Return to Campus plans and infection control measures specific to their respective areas.

Questions?

Whenever possible, employees are encouraged to direct questions related to workplace accommodation to their immediate supervisor.

Supervisors are encouraged to contact a member of the Human Resources, Academic and Staff Labour and Employee Relations team. Contact information can be found on the Human Resources website at <https://www.uwindsor.ca/humanresources/about-hr/our-team>

Resources Consulted

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- Ontario Human Rights Commission. COVID-19 and Ontario's Human Rights Code – Questions and Answers. Retrieved from: http://www.ohrc.on.ca/en/news_centre/covid-19-and-ontario%E2%80%99s-human-rights-code-%E2%80%93-questions-and-answers
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- Sherrard Kuzz LLP Employment & Labour Lawyers, COVID-19 Return to Work Considerations (May 13, 2020).
- University of Toronto, Division of Human Resources and Equity. Accommodation Guidelines for Employees with Disabilities retrieved from: <https://hrandequity.utoronto.ca/inclusion/accessibility/accommodation/accommodation-guidelines-for-employees-with-disabilities/>
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