

Accommodation in Employment for Persons with Disabilities

GUIDELINES

1. Purpose

To guide and direct accommodation for employees and job applicants with disabilities, as defined in the *Ontario Human Rights Code* and other applicable legislation, including the *Accessibility for Ontarians with Disabilities Act*. These guidelines also provide a clear statement on the obligations and responsibilities inherent in this accommodation process.

2. Scope

These guidelines apply to all University employees with a disability, and to job applicants with a disability who may require accommodations during the hiring process.

3. Guidelines

The University of Windsor will accommodate an employee with a disability in order for such employee to be able to perform the essential duties of their job, or an alternate position that may be available, in accordance with the Ontario Human Rights Code (OHRC) and other applicable legislation. The University will also endeavour to accommodate job applicants with a disability during the hiring process in accordance with OHRC guidelines, standards of the AODA, and other applicable legislation.

This guideline was developed as a complement to the University of Windsor's Accessibility Policy, which reflects the University of Windsor's continuing commitment to ensuring that employees with disabilities have equal opportunity to succeed in academic and employment pursuits.

DEFINITIONS

A disability can be permanent, episodic, chronic, or temporary. As a result, the required accommodation may be long-term or short-term. The definitions that follow are provided within the context of an evolving understanding of accessibility and the individualized nature of accommodation.

1. Statutory Definitions

Disability: Disability is defined, per Section 2 of the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11 and the Human Rights Code, R.S.O. 1990, c. H.19, as follows:

- a. "Any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- b. A condition of mental impairment or a developmental disability;
- c. A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- d. A mental disorder,
- e. An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1977."

Statutory definitions as set out in the OHRC, RSO 1990, and Chapter H. 19 can be found online on the Ontario Human Rights Commission website

2. Non-statutory Definitions

- a. **Accommodation:** Accommodation describes a process or a series of adjustments that are customized to the needs of an individual with a disability in the performance of essential duties or requirements of the position. Such requirements must be reasonable and bona-fide in the circumstances.
- b. **Undue Hardship:** The OHRC prescribes three considerations in assessing whether an accommodation could cause undue hardship: cost, outside sources of funding, and health and safety considerations. Information on the concept of undue hardship can be accessed on the Ontario Human Rights Commission website at <http://www.ohrc.on.ca>.
- c. **Work Hardening:** Progressive work-related activities performed to physically and psychologically recondition the employee to facilitate a return to full-time employment.

CONFIDENTIALITY

Personal health information is confidential and shall only be disclosed to the extent necessary to ensure that the University is able to meet its obligations under the OHRC and specifically, its duty to accommodate. In this regard, employees shall provide information, including information from health care practitioners, advising of abilities and restrictions in an effort to cooperate with the accommodation process. This information will be stored in a secure location with access limited to those on a need to know basis. Similarly, when disclosure to others, including managerial or supervisor personnel or third parties, is required, these others shall be required to maintain the confidentiality of the information.

THE DUTY TO ACCOMMODATE: General Principles

The University will develop individualized accommodation solutions in a manner that is consistent with the following principles:

- a. An overall work environment that encourages and fosters full participation of employees with disabilities;
- b. A work environment that is accessible in order to ensure the employee's independence in carrying out their work functions to the extent that it is possible;
- c. Reduce/eliminate barriers for employees with disabilities, in the work environment, in order to ensure opportunities equal to that given others;
- d. Enhance a positive work climate that supports the dignity of employees with disabilities.
- e. Each accommodation need is reviewed on a case-by-case basis to best fulfill the needs of the individual.

1. Inclusion and Full Participation

The University will make efforts to build or adapt the work environment to accommodate employees with disabilities in a way that promotes their inclusion and full participation. Preventing and removing barriers means employees should be able to access their environment and face the same duties and requirements with dignity and without impediment.

2. Individual Accommodation

A request by an individual for accommodation should be accompanied by documentation deemed satisfactory by the University, outlining the specific restrictions arising from the disability.

The Department of Human Resources, or the Office of the Provost and the Office Human Rights, Equity & Accessibility (OHREA) will serve as resources to prospective, new, and current employees regarding accommodation, and to departments regarding the development and implementation of individualized accommodation plans.

THE ACCOMMODATION PROCESS

The principles of respect for dignity, individualization, inclusion, and full participation apply both to the substance of an accommodation and to the accommodation process. The manner in which an accommodation is provided and the methods by which it is implemented are subject to human rights standards.

While the University is responsible for all decisions with respect to accommodation, at the heart of the accommodation process is the responsibility, shared by all parties, to engage in meaningful dialogue about accommodation and to collaborate with the appropriate University resources to achieve the most suitable accommodation solution. Everyone involved should co-operatively engage in the process, share information within the boundaries of confidentiality, and avail themselves of potential accommodation solutions.

Where a managerial supervisor/department head or dean has reason to believe that an employee may require accommodation, the Department of Human Resources or the Office of the Provost, along with OHREA, if applicable should be contacted. In collaboration, the Department of Human Resources or the Office of the Provost, and OHREA will serve as a resource to the employee and/or department in any case requiring the accommodation of an employee currently in the workplace, or an attempt to return an employee to the workplace as a result of an absence due to illness or accident.

1. General Guidelines

Accommodation shall address current employment limitations only, unless future limitations are known and can reasonably be accommodated coincident with the current accommodation required.

- a. Accommodation shall address the needs of the employee which directly relate to the employment or the needs of the job applicant, or which directly relate to a hiring process.
- b. The employee shall participate in all stages of the accommodation process together with the applicable department and the Department of Human Resources in consultation with the Office of the Provost, where appropriate and along with OHREA, if applicable. All parties may consult with OHREA as needed for assistance or to provide guidance surrounding the accommodation process. Other participants in the process may include as appropriate: the Union, the Faculty Association, health care professionals and insurers.

- c. The University shall attempt to return to the workplace an employee who has been unable to work as a result of disability, in a manner which is consistent with the University's policies and practices, and labour agreements.
- d. Where an employee requires accommodation, all medical documentation establishing the needs of the employee shall be maintained by the Department of Human Resources and the Office of the Provost for faculty, librarians, AAS and sessional lecturers/instructors.
- e. The nature of the accommodation provided may include the following types of accommodation, as appropriate:
 - Human support services such as sign language interpreters, readers, etc.;
 - Technical aids and devices and adaptive technologies or equipment;
 - Workstation and/or minor office modifications;
 - Position redesign;
 - Reassignments and alternative jobs;
 - Flexible or alternative work schedules;
 - Temporary rehabilitative assignments; and/or
 - Retraining plans.
- f. Once the individual accommodation plan has been established, the plan shall be amended as necessary to reflect changed circumstances. The plan shall be reviewed annually, or more frequently if required. Individual accommodation plans shall be provided to the employee in a format that takes into account the employee's accessibility needs due to disability. If required, the accommodation plan will include individualized workplace emergency response information and identify any other accommodation that is to be provided.

2. Short-Term Accommodation of Disabilities in Employment

If a disability prevents an employee from fulfilling the essential duties of their position for a temporary period, the University shall endeavour to provide accommodation to the employee. The objective of the short-term accommodation is the graduated return of an employee to full duties. A short-term accommodation typically includes modified hours and/or duties for a limited period of time and may include ergonomic interventions.

- a. Employees are responsible for initiating requests for short-term accommodation with their respective area manager/Dean. Such requests shall be subsequently directed to the Department of Human Resources and the Office of the Provost as appropriate. All parties may consult with OHREA as needed for assistance or to provide guidance surrounding the accommodation process.
- b. A representative of the Department of Human Resources, in consultation with the Office of the Provost, where appropriate, shall meet with the employee and their respective area manager/Dean to explain the work accommodation process and to obtain relevant

medical information surrounding medical limitations and restrictions. The employee may request that a Union or Faculty Association representative be present at such meetings. A representative of the Department of Human Resources, in consultation with the Office of the Provost and/or OHREA as needed, shall work with the employee and their department to develop and prepare an appropriate accommodation plan.

- c. Elements of an accommodation plan include:
 - All work-related medical restrictions;
 - The goal of the plan;
 - All accommodation measures;
 - The timeframe associated with each accommodation measure; and
 - Accountability for each accommodation measure and the overall accommodation plan.
- d. An accommodation plan, once established, shall be amended as necessary to reflect changed circumstances. The plan shall be reviewed annually, or more frequently if required.

3. Long-Term Accommodation of Disabilities in Employment

The University shall endeavour to provide long-term accommodations to enable an employee with a disability to fulfill the essential duties of the position. Long-term accommodation typically includes modification of a worksite, equipment, and/or duties.

- a. Employees are responsible for initiating requests for long-term accommodation with their respective area manager/Dean. Such requests shall be subsequently directed to the Department of Human Resources, the Office of the Provost, or OHREA as appropriate. All parties may consult with OHREA as needed for assistance or guidance surrounding the accommodation process.
- b. A representative of the Department of Human Resources or the Office of the Provost, shall meet with the employee and their respective area manager/Dean to explain the process and obtain relevant information such as medical information surrounding limitations and medical restrictions, and releases. The employee may request that a Union or Faculty Association representative be present at such meetings. A representative of the Department of Human Resources or the Office of the Provost, in consultation with the Office of the Provost and OHREA as appropriate, shall work with the employee and their department to develop and prepare an appropriate accommodation plan.
- c. If long-term accommodation cannot be provided immediately, a short-term accommodation plan shall be developed as an interim measure.

- d. The University shall determine whether:
 - The employee can perform the essential duties of their current position with accommodation;
 - The employee should receive further intervention, such as work hardening, before an accommodation can be provided; and
 - The employee's limitations cannot be accommodated in their own position and, if so, whether they can be accommodated in another available position.
- e. The University shall continue to use best efforts to accommodate an employee in a position for which the employee is qualified, in accordance with the University of Windsor's policies, practices and respective labour agreements. The employee must be qualified and able to fulfill the essential duties of the position, with accommodation if necessary.
- f. An accommodation plan, once established, shall be amended as necessary to reflect changed circumstances. The plan shall be reviewed annually, or more frequently if required.

4. Application to the Employee Accommodation Fund

A central Employee Accommodation Fund (the "Fund") shall be administered by the Office of Human Rights, Equity and Accessibility (OHREA). The purpose of this Fund is to provide an additional source of financial assistance for the purchase of supplies, equipment or related services (e.g. required training to use software) for the department/unit for workplace accommodations for persons with disabilities.

- a. Once an evaluation has occurred that accommodations are required for an employee and medical documentation to support the same has been received, the department/unit, along with the employee should determine what item(s) of support are needed. All parties may consult with OHREA for guidance or advice on ensuring the appropriate item(s) to support the accommodation are identified for purchase.
- b. Once the item(s) are identified to support the accommodation, the department/unit may complete an application to the Fund and submit the same to OHREA to initiate the next steps to evaluate accessing funds to support the purchase. In limited and urgent circumstances when items are required on an expedited basis, the department/Unit must contact OHREA in advance of the purchase to discuss whether subsequent application for EAF financial support can be made.
- c. Where EAF support has been provided, it is the responsibility of the department/unit to ensure a copy of all receipts relating to the purchase are submitted to OHREA.
- d. All purchases from the Fund remain the property of the University.
For more information and to access the Employee Accommodation Fund form visit:
Employee Accommodation Fund Guidelines.

5. Accommodation of Disabilities in the Recruitment Process

- a. Job postings shall include a statement indicating that accommodation is available through the Department of Human Resources or the Office of the Provost for potential applicants with disabilities. Upon request, all job postings will be made available in an alternate format.
- b. Upon request from a person with a disability, accommodation will be provided to the applicant at any time during the recruitment process.
- c. Accommodation for job applicants shall be coordinated through the recruiting unit/department. Queries concerning accommodation can be directed to the Employee Recruitment Coordinator (staff positions) or the Faculty Recruitment Coordinator (faculty-related positions). Further information on accommodation can also be sought from the Office of Human Rights Equity and Accessibility.

SUMMARY OF RESPONSIBILITIES

Implementation of these guidelines is a shared responsibility by all members of the University of Windsor community. Some areas of the University, however, are specifically accountable for implementing portions of these guidelines. Any party may consult with OHREA for assistance or for guidance surrounding the accommodation process.

Department of Human Resources or Office of the Provost

The Department of Human Resources in consultation with the Office of the Provost, where appropriate, is responsible for:

- Advising employees and applicants of relevant University policies, procedures and labour agreements and the mechanisms available for them for pursuing solutions;
- Promoting an environment supportive of requests for accommodation;
- Facilitating position placements where appropriate;
- Coordinating the accommodation of position applicants and employees as appropriate;
- Assessing, in conjunction with the managerial supervisor, the employee, and the Union or Faculty Association if applicable, the position requirements and the employee's, or prospective employee's functional abilities for accommodation requirements;
- Developing an appropriate accommodation plan for employees with disabilities according to these guidelines and procedures;
- Fulfilling their responsibilities under any accommodation plans;
- Monitoring and evaluating accommodations;
- Maintaining records of individual accommodation plans

Managerial Supervisors/Department Heads/Deans

Managerial Supervisors/Department Heads/Deans are responsible for:

- Advising applicants and employees of these guidelines and the procedures available for accommodation;
- Promoting an environment supportive of requests for accommodation, seeking guidance for this as needed;
- Identifying potential accommodation needs;
- Working with the Department of Human Resources in consultation with the Office of the Provost, where appropriate, along with OHREA, if applicable in the development of suitable accommodation for employees in accordance with these guidelines;
- Fulfilling their responsibilities under any accommodation plans;

- Implementing and overseeing accommodations and facilitating the integration of the employee or prospective employee being accommodation; and
- Monitoring the success of individual accommodation plans, and promptly addressing any deficiencies or any relevant changes in the workplace or the employee's needs.

Office of Human Rights, Equity & Accessibility (OHREA)

OHREA is responsible for:

- Advising the University community on relevant University policies and procedures particularly in relation to fulfilling all accessibility and human rights legislation requirements;
- Providing assistance as needed in the accommodation process;
- Promoting an environment supportive of requests for accommodation and providing guidance as needed;
- Administering all applications to the Employee Accommodation Fund in a fair and equitable manner;

Employees

Employees are responsible for:

- Disclosing the particulars of their need for accommodation to the appropriate representative in the Department of Human Resources or the Office of the Provost, along with OHREA, as needed;
- Participating in the accommodation process, e.g. by providing relevant medical information in a timely manner;
- Fulfilling their responsibilities under any accommodation plans; and
- Monitoring the success of their accommodation plans and promptly addressing any deficiencies in the accommodation plan or any relevant changes in their work-related needs.

The Union and Faculty Association

The Union and Faculty Association are expected to take an active role as partners in the accommodation of their members, fulfill their responsibilities under any accommodation plans, and share joint responsibility with the University to promote accommodation.

Co-workers

Information about accommodation is disclosed on a need-to-know basis. This means that information is given only to those who require it in order to fulfil the accommodation, and only as much information as is necessary to meet the requirements of the accommodation. Co-workers

that are aware of details of an accommodation have a responsibility to respect confidentiality. The Union leadership, departmental management and Human Resources or Office of the Provost, in collaboration with OHREA, will collectively educate employees of their obligations to support an accommodation plan noting the following:

- Acknowledgement and recognition that accommodation is a reciprocal process; it could be anyone at any time;
- Teamwork is a value that is acknowledged and rewarded through recognition by the employer;
- The union fosters the value of working collectively on behalf of its membership;
- Workplace parties know that they are legally bound to uphold the Ontario Human Rights Code, Accessibility for Ontarians with Disabilities Act and the Labour Relations Act to ensure the workplace is free from harassment and discrimination;
- Workplace parties acknowledge that the legal threshold of undue hardship is a high one, thus procedurally and substantively they are committed to working together in devising and revising accommodation plans that meet the interests of all parties as much as is possible.