

## Manager's Toolkit for Supporting Employees Requiring Disability-Related Accommodation

### Background

This toolkit has been created in support of the University's compliance with the [Ontario Human Rights Code](#) and the University's [Accessibility Policy](#).

Workplace accommodations are adjustments, which are made at any point along the path of the employment life cycle. Workplace accommodations enable a person with a disability to apply for a job, participate fully in the interview process, and to perform the duties of a position to the best of their abilities.

Employees and job applicants seek to attain, in a confidential manner, accommodation that respects their dignity. Employers seek to accommodate the disabilities of those with disabilities in a fair and reasonable manner in accordance with their legal obligations.

### Let's begin with some key definitions:

**Accommodation:** An adaptation or adjustment made to enable a person with a disability to demonstrate the essential competencies of their program/profession or fulfill the essential requirements of a particular course and/or program. The requirement, qualification or factor must be reasonable and bona-fide in the circumstances.

**Barrier:** Anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice.

### Disability means:

- 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, including diabetes mellitus, epilepsy, and any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or physical reliance on a guide dog or on a wheel chair or other remedial appliance or device;
- b. A condition of mental impairment or 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; or
- e. An injury or disability for which benefits were claimed or received under the Workplace Safety and Insurance Act.

### What are the goals of a workplace accommodation?

- To meet the disability related needs of the employee or the applicant.
- To assist the employee with performing the essential duties of their job to a reasonable standard.

- To have the employee enjoy the same benefits and privileges as before and experienced by others.
- To provide support throughout the employment life cycle and this cycle begins at the onset of the job application stage.
- To identify, remove and prevent barriers to persons with disabilities up to the point of undue hardship.
- To respect the dignity of the disabled employee and to ensure that the accommodation provided does not stigmatize or devalue the individual or their work.
- To abide by policies concerning the sharing and storage of confidential information.

## What is the Manager's role and responsibilities in the accommodation process?

Managers play a key role setting the tone and promoting a positive culture within the workplace. An individual's engagement in the University can be significantly impacted by a supportive environment that encourages open communication and applies policies, procedures and practices with fairness, consistency and transparency.

A Manager must accept requests for accommodation in good faith and take immediate steps to commence the process by contacting HR (Health and Disability Management Specialist). It is also critical for a Manager to maintain confidentiality and provide input as needed throughout the process, including information pertaining to job demands, team structures, etc.

Having a solid understanding of the accommodation process will enable a Manager to be a valuable resource to an employee seeking information and guidance. A Manager will be called upon to provide support implementing and overseeing accommodation plans.

**For further information on roles and responsibilities, check Ontario Tech's [Participants' Guide to Disability-Related Workplace Accommodation](#)**

## Myth Busting!

Simple and cost effective accommodation solutions can be found when taking a systemic approach to identifying and removing barriers. However, barriers are not always obvious and employees and job applicants should be encouraged to work with management and the Health and Disability Management Specialist (HDMS) to help identify existing and/or potential barriers. There are many myths surrounding accommodating people with disabilities including the cost of an accommodation being prohibitive. According to a study outlined in the [Rethinking Disability in the Private Sector](#), it was noted that in 57 percent of cases, no workplace accommodation is required for people with disabilities. The report also indicates that in 37 percent of cases, a one-time cost to accommodate an employee with a disability costs the employer an average of \$500.

## Exploring the Duty to Inquire

As a manager, if you believe there is a need for accommodation not requested by an employee (i.e. they suspect an undisclosed disability), they have an obligation to initiate the accommodation process. As per the Ontario Human Rights Code (OHRC), as part of duty to inquire, a manager has an obligation to initiate the accommodation process if they believe there is a need for an accommodation.

When the request for accommodation process is initiated, avoid focusing on preferred accommodation measures as all parties should keep an open mind and be willing to explore potential options. When supporting those requesting accommodation, the focus should be placed on the functional limitations that are impacting the employee's ability to perform their job duties or to apply for work.

**To find out more about the Duty to Inquire, check out [13.6.1 of the OHRC](#) .**

## What is Undue Hardship?

The duty to accommodate does not create an endless obligation on the University. Circumstances of the employee, the co-operation of the employee, the success of accommodation attempts, and the employee's ability to perform the essential duties of the job as well as performance difficulties will all be relevant to determining where the duty to accommodate ends.

The University is not obligated to accommodate employees or job applicants in cases where it can demonstrate undue hardship. The OHRC sets out three elements to be considered in assessing whether an accommodation would cause undue hardship:

### 1. Costs

According to the OHRC, over two-thirds of job accommodation cost under \$500 and many accommodations require no costs at all.

The determination of cost as an undue hardship is based on the circumstances of the organization as a whole and the nature of the accommodation requested. Costs for the University as an employer must be significantly high to be considered an undue hardship. Such costs must be quantifiable and may include capital, operating costs as well as the cost of re-structuring.

The University may phase in accommodation gradually where immediate removal of large-scale barriers would cause undue hardship, the University may phase in accommodation gradually. Interim accommodations must be provided by the University in such circumstances.

### 2. Outside Sources of Funding

The availability of outside sources of funding may alleviate accommodation costs. The University must first consider the availability of outside resources before claiming undue hardship. These resources could be funds that may be available to the individual only or directly to the University and may be provided through government programs i.e. programs to improve accessibility for persons with disabilities.

### 3. Health and Safety

There may be some situations where a health or safety requirement, legislated or not, effectively excludes someone from employment/accessing University services. However, it must be determined whether any health and safety requirement can be waived or modified or if alternatives can be found to protect health and safety.

In situations where Ontario health and safety laws do not allow a requirement to be waived, an equivalent safety measure may be used. You will need to explain the risks to the individual if the risk of harm is only to the person making the request. If the accommodation contravenes health and safety legislation and places the person at significant risk, then undue hardship exists. You should consult Health and Safety Officer in making these determinations.

Calculations that are not precise, potential costs that are based on assumptions and/or health and safety implications are insufficient to demonstrate undue hardship. In order to meet the undue hardship threshold, objective evidence/data showing actual costs and/or actual health and safety impacts are required.

Business inconvenience, employee morale, and collective agreements or contracts cannot be considered in determining whether the University has reached the point of undue hardship.

The HDMS will notify the employee in writing with the reason for denying the request and will copy Manager. The HDMS will also advise employee of their options if they should wish to appeal the decision.

## When should a temporary accommodation be considered?

In some cases, it may be necessary to provide temporary accommodation while waiting for a more permanent accommodation to be put in place or while the Disability Management Service Provider is assessing medical documentation as part of the formal accommodation process.

Making an accommodation available today may make sense. However, it is important to consider how even a temporary accommodation may impact the needs of the department or faculty in the future. For example, a part-time or flexible schedule may be reasonable now, but as business and staffing needs change, this accommodation could become something that is no longer reasonable to allow.

When considering a temporary accommodation on behalf of an employee, the follow questions should be considered:

- Why is the accommodation being provided on a temporary or trial basis?
- When will the temporary or trial period begin and end?
- Who will monitor the temporary accommodation?
- What action will be taken at the end of the temporary or trial period?

## What types of accommodations can be considered?

**Accommodations are specific to each individual and may include, but are not limited to:**

- human support services such as sign language interpreters, readers, classroom assistants etc.
- assistance obtaining class notes
- books and materials in an accessible format
- disability related counselling and support
- test and exam accommodations (e.g., extra time, technology, software)
- access to specialized software, such as text-to-speech or speech-to-text
- specialized support from a Learning Strategist and/or Assistive Technologist (i.e. technical aids and assistive devices)
- workstation and/or office modifications
- job design
- flexible or alternative work schedules
- temporary re-assignments

## What are the steps involved in the accommodation process?

1. Need for accommodation identified by employee or manager.

The employee can also initiate the process and reach out to the HDMS and when this occurs, the manager will be notified so that all three parties can move forward and work through the process together.

2. The employee is provided with [Accessibility Policy & Accommodation Procedure](#).

3. The manager contacts HDMS.

4. The manager and employee discuss roles, responsibilities, and possible temporary solutions with HDMS.

5. The Attending Physician Statement and Plan Member Statement forms and relevant medical documentation are submitted directly to Sun Life by the employee.

[Click here for Employee Accommodation Request Forms](#)

6. The HDMS submits a referral form on behalf of employee along with job details to Disability Service provider.

7. Once the Disability Service Provider has completed their assessment, they will provide the HDMS with information relating to the employee's limitations and restrictions. Based on this information, the HDMS, explores accommodation options with employee and manager and creates an accommodation plan.

The employee and manager will receive a copy of the accommodation plan.

8. The accommodation plan is implemented as quickly as possible and reviewed annually at minimum.

### **How is an accommodation measure selected?**

Efforts must be made to ensure that the requester is not disadvantaged by the accommodation measure chosen. Management should choose the option with the least disruption to the requester. However, the circumstances may be such that accommodation cannot be provided without disruption to the requester. In those instances, the requester has an obligation to accept a reasonable accommodation offer.

When selecting an accommodation, those involved in the accommodation process should try to be creative and identify as many accommodation solutions as possible. Identifying numerous options will increase the likelihood of successful accommodation.

The University is obligated to fully explore accommodation within an employee's own job accommodation outside of the employee's position (e.g. reassignment to a vacant position) may be considered; for example, when the employee cannot perform the essential duties of the position and/or accommodation in the current position would create undue hardship. However, this does not mean that a new job must be created for an employee, nor does the application of this policy constitute a guarantee of continued employment. The University is not obligated to accept substandard or less than competent performance from an employee once they have been accommodated.

### **When should an accommodation be reviewed?**

To meet legislative requirements and to ensure accommodation plans are implemented and reviewed consistently, plans must be reviewed on an annual basis at minimum.

Typically, it will be necessary to monitor the success of the specific accommodation and this will include the review, modification or upgrading of accommodations as jobs; services; functional limitations and changes to accommodation options.

The HDMS may also need to review the accommodation periodically in order to assess the impact on the operations on the faculty or department.

### **What are some further points to take into consideration?**

- An accommodation does not require that a new job be created nor does it require making substantial changes to the job or removing essential duties of the job such that the job becomes substantially different.
- The University must be able to demonstrate that the accommodation process was undertaken in good faith.
- Individuals should be prepared to answer questions about their functional limitations and/or provide documentary evidence directly to the Disability Management Service provider.

- An individual receiving an accommodation is not necessarily entitled to receive the accommodation for an indefinite time period and must accept a reasonable accommodation.
- The preferred accommodation measure will be considered but if there is an equally effective accommodation solution, the University may choose to proceed with the one that is the least costly, easiest to provide and/or a better fit with department/faculties operations where it can demonstrate that it meets the need(s) of the requester.

### **What if further support is needed?**

Contact your Health and Disability Management Specialist or check out these resources:

[Canadian Centre for Diversity and Inclusion](#)

[Canadian Human Rights Commission-Accommodation Works!](#)

[Canadian Human Rights Commission - What is Duty to Accommodate?](#)

[Ontario Human Rights Commission - Duty to Accommodate](#)

[Mental Health in the Workplace - An Accommodation Guide for Managers and Staff](#)