



## Accommodation in Employment for Persons with Disabilities

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### 1. Purpose

This policy provides guidelines and direction regarding the accommodation in employment for OCAD University (“OCAD U” or “the University”) 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*. It also provides a clear statement on the obligations and responsibilities inherent in this accommodation process.

### 2. Scope

The policy applies to all University employees with a disability, and to job applicants with a disability who may require accommodations during the hiring process.

### 3. Policy

OCAD U 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 and other applicable legislation.

This policy was developed as a complement to the University’s Respectful Work & Learning Environment Policy (Policy 8001), which promotes principles of diversity and inclusion at OCAD U.

## DEFINITIONS

### Statutory Definitions

Statutory definitions as set out in the *OHRC*, RSO 1990, Chapter H. 19 can be found online at <http://www.ohrc.on.ca>

### Non-statutory Definitions

**Accommodation:** Accommodation is an adaptation or adjustment made to support a person 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.

**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>. A determination that an accommodation will create undue hardship may be made only by the Director, Human Resources. The employee and, if applicable, the employee's union or Faculty Association, will be consulted regarding the range of available options.

**Work Hardening:** Progressive work-related activities performed to physically and psychologically recondition the employee to facilitate a return to full-time employment.

## CONFIDENTIALITY

Personal information concerning an employee's disability cannot be released without the prior written consent of the individual, and must be managed in a manner that is consistent with privacy guidelines and applicable privacy legislation, where appropriate, and the *OHRC*. In order to facilitate the accommodation process, it is expected that employees will provide information, including information from health care practitioners, where reasonably required, in order to implement accommodations in accordance with the *OHRC*.

Where the accommodation process requires the release of confidential information to a third party (such as an external resource group), the third party, and any person or department delegated by that third party, will be required to ensure that confidentiality is protected, that the information obtained is kept in a secure location, and that it is used solely for the purpose that the release was required.

### THE DUTY TO ACCOMMODATE: General Principles

Employees with disabilities have the right to work in an environment that is respectful of their dignity. Human dignity encompasses individual self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment.

The University will develop accommodation solutions in a manner that respects the dignity of employees with disabilities.

### 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.

## **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. Where a managerial supervisor has reason to believe that an employee may require accommodation, the Human Resources office should be contacted.

Accommodation will be assessed on an individual basis with appropriate expertise from within and outside the University, as necessary. The Human Resources office 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. It is expected that the employee requiring accommodation will be involved in all levels of discussion to reach a solution.

The Human Resources office will also serve as a resource to a prospective employee regarding accommodation, and/or to a department potentially required to accommodate a new employee.

## **THE ACCOMMODATION PROCESS**

The principles of respect for dignity, individualization, and 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 seek out expert assistance as needed. Everyone involved should co-operatively engage in the process, share information within the boundaries of confidentiality, and avail themselves of potential accommodation solutions.

### **General Guidelines**

1. Accommodation shall address current employment limitations only, unless future limitations are known and can reasonably be accommodated coincident with the current accommodation required.
2. 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.
3. The employee shall participate in all stages of the accommodation process together with the appropriate department and the Human Resources office. Other participants in the process may include as appropriate: the Union, the Faculty Association, health care professionals and insurers.
4. The University shall attempt to re-employ 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.
5. 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;
  - Workstation and/or minor office modifications;
  - Position redesign;
  - Reassignments and alternative jobs;
  - Flexible or alternative work schedules;

- Temporary rehabilitative assignments; and/or
  - Retraining plans.
6. Decisions related to the accommodations of OCAD U employees are subject to the grievance process as outlined in the Collective Agreements and Memorandum of Agreement as well as the procedures to address concerns as outlined in the Respectful Work & Learning Environment Policy (Policy 8001).

### **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.

1. All requests for short-term accommodation shall be directed to the Human Resources office.
2. A representative of the Human Resources office, normally the Benefits Specialist, shall meet with the employee 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. The Benefits Specialist shall then prepare an appropriate accommodation plan for the approval of the employee's unit/department.
3. 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.
4. An accommodation plan, once established, shall be amended as necessary to reflect changed circumstances.

### **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.

1. All requests for long-term accommodation shall be directed to the Human Resources office.
2. A representative of the Human Resources office, normally the Benefits Specialist, shall meet with the employee 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.
3. The Benefits Specialist shall contact the unit/department to obtain information about the position.
4. An independent medical assessment may be required at any stage.
5. Human Resources office shall provide the employee's unit/department with an assessment so that the unit/department can determine if long-term accommodation is viable.
6. If approved long-term accommodation cannot be provided immediately, a short-term accommodation plan may be developed as an interim measure.

7. The University shall determine whether:
  - The employee can perform the essential duties of their current position with an 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.
8. The University shall continue to use best efforts to accommodate an employee in a position for which the employee is qualified, in accordance with OCAD U policies, practices and labour agreements. The employee must be qualified and able to fulfill the essential duties of the position, with accommodation if necessary.

### **Application to the Employee Accommodation Fund**

1. A central Employee Accommodation Fund (the "Fund") shall be administered by the Human Resources office.
2. Monies from the Fund shall be expended for one-time only expenditures in the fiscal year for accommodating individual employees with disabilities pursuant to the University policy and guidelines and for no other purpose. Without limiting the generality of the foregoing, the Fund shall be used for:
  - The purchase or modification of special equipment;
  - Initiation of the accommodation; and/or
  - Special renovations which would be used by the employee that do not fall within budgetary allocations for general accessibility.
3. All purchases from the Fund remain the property of the University.
4. Money for continuing the accommodation in ensuing fiscal years including maintenance and replacement of equipment, physical changes, adjunctive or support staff, shall be provided by the Managerial Supervisor.
5. In any year in which the Fund allocation is insufficient to meet the needs identified within that year, the Director, Human Resources may make application for additional funding to the Vice-President, Finance & Administration detailing the need for additional funding.

### **Accommodation of Disabilities in the Hiring Process**

1. Job postings shall include a statement indicating that accommodation is available through the Human Resources office for potential applicants with disabilities. Upon request, all job postings will be made available in alternative format.
2. Accommodation may be provided to an applicant at any time during the hiring process.
3. Applicants may request accommodation at any time during the hiring process.
4. Accommodation for job applicants shall be coordinated through the hiring unit/department. Queries concerning accommodation shall be directed to the Human Resources office.

### **SUMMARY OF RESPONSIBILITIES**

Operational responsibilities for implementation of the policy are shared by all members of the OCAD U community. Some areas of the University, however, are specifically accountable for implementing portions of this policy.

### **Human Resources Office**

The Human Resources office is responsible for:

- Advising employees and applicants of relevant University policies, procedures and labour agreements and the mechanisms available for them for pursuing solutions;
- Providing disability management services;
- Promoting an environment supportive of request for accommodation by:
  - Communicating this policy and the availability of support in relation to it to OCAD U employees;
  - Providing guidance and training support to managerial supervisors about accommodations;
- Providing assessment and training where required;
- Facilitating position placements where appropriate;
- Advising on contractual requirements concerning employee accommodations;
- 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 applicants and employees with disabilities according to the guidelines and procedures of this Policy;
- Fulfilling their responsibilities under any accommodation plans;
- Administrating the Employment Accommodation Fund for persons with disabilities;
- Monitoring and evaluating accommodations;
- Maintaining records of individual accommodation plans; and
- Providing an annual report on accommodation to the Accessibility Committee and the Vice-President, Finance & Administration for information.

### **Managerial Supervisors**

Managerial Supervisors are responsible for:

- Advising applicants and employees of this Policy 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 Human Resources office in the development of appropriate accommodation for applicants and employees in accordance with the guidelines and procedures of this Policy;
- Fulfilling their responsibilities under any accommodation plans;
- Implementing and overseeing accommodations and facilitating the integration of the employee or prospective employee being accommodated; 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.

### **Employees**

Employees are responsible for:

- Disclosing the particulars of their need for accommodation to the appropriate Human Resources representative, normally the Benefits Specialist;
- Participating in the accommodation process, e.g. by providing relevant medical information in a timely manner, identifying the duties that they are able or unable to perform;
- 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.