# Workplace Accommodation Policy and Process

POLICY STATEMENT

[Organization Name] is committed to providing an accessible working environment for all employees. [Organization Name] will support and facilitate the accommodation of employees with disabilities so that they are able to safely access all the opportunities that [Organization Name] offers, subject only to the limits of undue hardship.

[Organization Name] recognizes the importance of inclusion by design and barrier removal in the integration of employees with disabilities.  [Organization Name] will work to eliminate or minimize the adverse effects of all forms of barriers in accordance with its obligations under the Human Rights Code (“the Code”), and the Accessibility for Ontarians with Disabilities Act, 2005 (“the AODA”).

PURPOSE

Subject to the foregoing, the purpose of this policy is to guide process and decision-making for individual employee disability-related accommodations at [Organization Name].  Moreover, this policy outlines the process for which accommodation requests will be received, approved and facilitated.

**This document is available in alternate accessible formats on request.**

DEFINITIONS

*Disability*: is defined by the *Human Rights Code* 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 co-ordination, 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, or

(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

*Reasonable Accommodation:*for the purpose of this procedure, is an individualized process which, to the point of undue hardship, involves the removal or alleviation of barriers that prevent an otherwise capable individual from participating equally in the workplace because of a disability.  For the purpose of this document, “reasonable accommodation” and “accommodation” are used interchangeably.

*Undue Hardship:*The point at which, having regard to all of the relevant circumstances, providing an employee with accommodation is outweighed by financial and/or institutional costs, the impact on other employees, health and safety considerations, and/or other relevant factors involved in providing the accommodation.

**Objectives**

[Organization Name] is committed to:

* Ensuring compliance with all applicable legislation and [Organization Name] policies;
* Ensuring that all requests for accommodation are considered on a case-by-case basis in order to determine accommodation requirements;
* Ensuring that all safety measures are taken into consideration when determining appropriate accommodation;
* Establishing an efficient and timely accommodation process that is consistent with the requisite principles outlined in Human Rights jurisprudence; and
* Outlining the process for submitting a request for accommodation, verifying and accepting the need for accommodation, and facilitating the accommodation.

**General Principles**

* In individual cases, accommodation is a process which seeks to find the means to ameliorate those restrictions/limitations caused by the individual’s disability that preclude the individual from either meeting the requisite qualifications or from carrying out the essential requirements of a position.  This process will take into account the following guiding principles:
  + The search for accommodation in any individual case is a process that takes into account the unique needs of the individual being accommodated.
  + In the accommodation process, workplace parties will be expected to work together cooperatively in a respectful manner, to share information, and to avail themselves of potential accommodation solutions.
  + Pursuant to the previous point, the individual must cooperate in the process by providing information, including medical reports, that clearly outline the restrictions/limitations/needs that result from the disability.  As well, the individual must work with [Organization Name] to find an appropriate accommodation.
* Every effort should be made to provide reasonable accommodations. The accommodation selected will be an accommodation that aims to reduce the impact of the disability at work, most respects the individual’s dignity, and does not give rise to undue hardship.
* The accommodation process will incorporate measures to respect and protect the confidentiality of employee personal or medical information.
* A written Accommodation Plan shall be developed to detail the roles and responsibilities of the parties and to facilitate accountability and regular monitoring.
* Accommodations shall be developed on an individualized basis, shall aim to remove barriers and ensure equality, and shall incorporate all appropriate measures to ensure the safety of the individual requesting the accommodation and all others.
* It is the obligation and desire of [Organization Name] to provide appropriate accommodation up to the point of undue hardship, which includes health and safety considerations.

**Confidentiality of Information**

* Requests for accommodation may involve the disclosure of private or highly sensitive information. Persons requesting accommodation shall be asked only for information required to support the accommodation request, and to respond appropriately to the request.
* Information related to an individual’s disability and accommodation requests shall be kept in a separate location from the individual’s regular personnel file.
* Personal information concerning an employee’s disability shall not be disclosed without the prior written consent of the individual or, where the disclosure is necessary to obtain an effective accommodation, without advising the individual to whom the information will be disclosed and must be managed in a manner that is consistent with the Personal Information Protection and Electronic Documents Act OR *Freedom of Information and Protection of Privacy Act (1990)*.
* Only relevant stakeholders will be involved in the development of an employee’s accommodation plan.
* Where the accommodation process requires the disclosure 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 shall be required to ensure that confidentiality is protected, that the information obtained is kept in a secure location, and is used solely for the purpose for which the disclosure was required.

**Accommodation Process**

Workplace accommodations can range from simple and straightforward cases, to lengthy and complex ones.  The steps in this procedure outline the general process by which [Organization Name] addresses accommodation for employees with disabilities in the workplace. It must be recognized that the Human Rights Tribunal of Ontario has emphasized that following a proper process in every case is of critical importance and that failure to do so may be seen as a violation of the *Human Rights Code*.

The principles of dignity, individualization, inclusion, and full participation are to be applied throughout the entire accommodation process.  All parties share in the responsibility to engage in meaningful dialogue and to work together respectfully towards accommodation solutions.

**Requests for Accommodation**

A need for accommodation for reasons of disability may be identified in a number of ways, including the following:

* An employee may identify the need by notifying their manager that due to a disability, they cannot perform the essential duties of their job and are requesting an individual accommodation plan.
* For an employee returning to work after an illness or injury, the return to work process involves a review to determine whether there are any disabilities and/or required accommodations prior to the employee returning to the workplace, and they are covered by the RTW Policy.
* The need for accommodation may be identified by a manager, health care provider or another party, in which case the employee will be made aware of the accommodation process.

Accommodation requests are to be made in writing to the employee’s manager.  If requested, the employee may provide their accommodation request in an alternate format that takes into account their accommodation needs.

In the event that an accommodation request is denied, the employee will be provided with written documentation of the reasons for the denial.  These reasons will also be provided in alternate format upon request.

The denial of an accommodation request may be appealed, in writing, to Senior Management if not involved in the original decision or designate.  A final decision will be reached as soon as reasonably possible, based on a review of the accommodation request, the written documentation of the reasons for the denial, and any further information provided by or obtained from all parties regarding the request.

**Medical Documentation**

* A request for accommodation must be supported by appropriate medical documentation.
* Medical documentation must confirm that the employee has a disability that interferes in their ability to do their job or otherwise participate fully in the workplace, outline the specific restrictions and limitations that need to be accommodated, and the duration of the accommodation.
* Pursuant to the previous point, the employee will be provided with a Functional Abilities Form, (FAF) which the employee will be instructed to have completed by their treating health care practitioner.
* It is recognized that there may be some obvious cases where medical documentation would not be required; Human Resources can assist with this determination.
* Additional medical documentation may be required with complex medical cases, cases involving a permanent disability, or cases requiring clarification about the employee’s disability or restrictions.
* In such situations, [Organization Name] will provide the employee with the employer's written request for further information from the employee’s doctor, medical specialist, or other healthcare provider.
* Where such requests result in insufficient information to determine appropriate accommodation measures, [Organization Name] may require the employee to undergo an independent medical examination.
* The employee will be requested to sign a consent document to permit enquiries and release of information to [Organization Name]. The costs associated with obtaining additional medical documentation will be covered by [Organization Name].
* [Organization Name] will review the information in the medical documents received, and will only communicate non-confidential information (e.g. functional abilities, limitations or restrictions, prognosis, anticipated duration of accommodation) to the employee’s manager.
* No confidential information (e.g. diagnosis, treatment plan, name/specialty of the health care provider) will be shared without the prior written consent of the employee, excepting only where the information needs to be shared with a supervisor or others in order to achieve the accommodation.

**Accommodation Process**

* The employee shall notify their manager of the request for an individual accommodation plan.
* The employee or manager may contact Human Resources for assistance in the development of the accommodation plan.  Human Resources will provide information, support and assistance as needed throughout the accommodation process.
* Once the request is received, the employee will be required to provide appropriate medical documentation, as noted above.
* The medical documentation will be reviewed to ensure that the information provided is adequate and will request additional medical information if needed. The manager will be informed about the employee’s restrictions, limitations, and accommodation needs.
* The manager, in consultation with the employee, will make every reasonable effort to identify appropriate accommodation measures that will enable the employee to fulfill the essential duties of their job.

***Note****:  [Organization Name] is not required to create a new position for the employee; the accommodation process is intended to assist the employee in performing their current position. However, in some cases, the employee may be assigned a temporary position pending resolution of their disability to the point where they are able to return to their position, with or without accommodation.*

* The manager will also determine whether the employee requires individualized workplace emergency response information and/or an individual Workplace Emergency Response Information plan as a result of the disability.
* All possible reasonable accommodation measures must be canvassed. Those accommodation measures selected to be included in the accommodation plan must be the measures that most respect the dignity of the individual while achieving the aim of providing the individual with equal opportunity, provided that no accommodation measures are selected which create undue hardship.
* Where a concern arises that either no measure for accommodation is available or all possible accommodation measures would give rise to an undue hardship, Human Resources or Senior Management, as applicable, must be involved in any subsequent decisions regarding the accommodation process.
* Once the accommodation measures have been determined, the manager will prepare a written accommodation plan outlining the nature of the accommodation and the measures agreed upon.
* The manager will sign the plan document, and the employee and the employee’s union representative (if any) will be given an opportunity to sign the plan.  A copy of the final plan will be forwarded to all parties involved.  A copy will be kept alongside the employee’s personnel file.
* The manager, with cooperation from the employee, is responsible for ensuring that the measures outlined in the accommodation plan are implemented.

**Monitoring and Review**

* The manager must conduct ongoing monitoring and reassessment of the accommodation plan during the period of accommodation.
* [Organization Name] may request updated medical information on a periodic basis to support ongoing accommodations.
* If the accommodation is no longer appropriate, the employee and the manager will work together to gather relevant information and reassess the employee’s needs in order for the employer to find the best accommodation measure.
* The employee or manager can contact [Organization Name] senior management to assist in reviewing or revising the accommodation plan if the restrictions and limitations have changed or if updated medical documentation is received.