

# Accommodation for Employees with Disabilities Policy

**Category:** Human Resources

**Approval:** President and Vice-Presidents Group (PVP)

**Responsibility:** Associate Vice-President, Human Resources

**Date:** May 27, 2014

Nothing in this Policy is intended to limit any rights contained in the Ontario Human Rights Code or to restrict or inhibit an employee's right to file a complaint with the Human Rights Tribunal of Ontario. Nothing in this Policy is intended to limit any rights contained in a collective agreement between the University and any Union or to limit access to the grievance and arbitration process under any collective agreement in connection with discrimination and accommodation.

## Definitions:

**Statutory Definitions:** Statutory definitions, as set out in the [Ontario Human Rights Code, R.S.O. 1990, Chapter H.19](#)

(URL: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90h19\\_e.htm#BK12](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90h19_e.htm#BK12))

## Non-Statutory Definitions

**Accommodation:** Accommodation is an adaptation or adjustment made to enable a person with a disability to perform the essential duties or requirements of the position. The requirement, qualification or factor must be reasonable and bona-fide in the circumstances. Accommodation may include, but is not limited to:

- Human support services such as sign language interpreters, readers, etc.
- Technical aids and assistive devices
- Workstation and/or office modifications
- Job redesign
- Flexible or alternative work schedules
- Temporary re-assignments

## Disability:

- any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and 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;

- a condition of mental impairment or a development disability;
- a learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- a mental disorder; or
- an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

**Undue Hardship:** The Ontario Human Rights Code prescribes three considerations in assessing whether an accommodation could cause undue hardship: Cost; Outside Sources of Funding; and Health and Safety Considerations. Additional information is available on the [Ontario Human Rights Commission website](http://www.ohrc.on.ca) (URL: www.ohrc.on.ca).

**Supervisor:** Includes Managers, College Heads and Principals, Deans, Directors, Principal Investigators and Vice-Presidents.

**Transitional or modified work:** A return-to-work process that supports the employee's re-integration to his/her position after an injury or illness that results in medical restrictions or limitations.

**Temporary accommodation:** Modifications that the employee requires in order to perform the essential functions of their own position, providing support for a prolonged recovery.

**Permanent accommodation:** An employee reaches his or her maximum recovery and will require continuing accommodation to perform the essential functions or duties of their own job, where such accommodation does not result in undue hardship to the University.

### **Purpose/Reason for Policy:**

The purpose of this policy is to:

- Provide a clear statement of the obligations of the University to accommodate employees with disabilities to the point of undue hardship and;
- Provide guidance and standards for the implementation of an accommodation process for: transitional or modified work, temporary accommodation, or permanent accommodation.

### **Scope of this Policy:**

The policy applies to any Trent employee with a disability, and to job applicants who may require accommodation during the selection process at Trent. In the case of workplace injury/accident, the process of employee accommodation is managed by the Environmental Health & Safety Officer and the Workplace Safety Insurance Board (WSIB).

### **Policy Statement:**

#### **Objectives**

Further to the requirements of the Ontario Human Rights Code and up to the point of undue hardship, the University is committed to:

- Achieving a culture and work environment that is supportive of employees with disabilities;

- Ensuring that the disability-related needs and circumstances of each employee with a disability will be considered on a case-by-case basis, in order to determine the appropriate workplace accommodation to be provided to the employee;
- Establishing an efficient accommodation process that clarifies the roles within the Trent community and that supports the principles of confidentiality and shared responsibility;
- Ensuring compliance with all applicable legislation, collective agreement provisions and University policy.

### **Principles:**

- Shared accountability and responsibility between the employee requiring accommodation, and the employer;
- Respect for the dignity and autonomy of the individual by ensuring they are involved in planning the accommodation and that it meets their specific circumstances;
- Respect for confidentiality, by involving only relevant stakeholders in the development of the accommodation plan;
- Ensuring that employees are not in any way disadvantaged because they require accommodation;
- The commitment of all parties to consult with appropriate medical and/or disability specialists in order to validate medical and/or disability information, determine individual accommodation requirements and consult on specific accommodation issues.

### **Responsibilities**

Support and commitment to this policy is a community responsibility. The Accessibility for Ontarians with a Disabilities Act (AODA) requires a proactive approach to accommodating persons with disabilities. Supervisors and senior administration bear responsibility in ensuring that their actions are in compliance with the policy, the Ontario Human Rights Code and the Occupational Health and Safety Act.

#### **1. Supervisors**

Supervisors are accountable for:

- Accepting the employee's request for accommodation in good faith;
- Obtaining opinion or advice in conjunction with Human Resources, where needed;
- Responding to accommodation issues as expeditiously as possible;
- Implementing accommodation requirements while working in partnership with the employee, Human Resources and any other resources, including Union representation, if requested by the employee, that are required;
- Implementing and overseeing accommodations within their work unit, facilitating the integration of the employee being accommodated, and ensuring a supportive work environment;
- Providing education and support to other employees on accommodation issues, if required and ensuring that appropriate confidentiality is maintained;
- Ensuring the policy is consistently and fairly applied in their area of responsibility, in a manner that is compliant with existing legislation and collective agreements;

- Ensuring that the needs of persons with disabilities are addressed in the recruitment and selection process.

## **2. Person with a Disability**

Employees requesting accommodation are responsible for:

- Advising the supervisor of the need for accommodation, to the best of his or her ability and in a timely manner, preferably in writing;
- Providing disability-related information regarding relevant restrictions or limitations, including information from health care providers, as needed;
- Co-operating with all aspects of the accommodation process, within the requirements of the law, which may include obtaining follow-up medical documentation from an Independent Medical Evaluator (IME);
- Participating in discussions regarding possible accommodation solutions, and reasonably co-operating with any experts whose assistance is required to manage the accommodation process;
- Working with the supervisor to ensure that performance and job standards are feasible and appropriate based on the disability and the bona-fide requirements of the position;
- Communicating with their union should they wish to exercise their right to representation
- Complying with the accommodation plan;
- Advising the Supervisor immediately of any change in circumstance that affects the accommodation plan;
- Job applicants are responsible for advising Human Resources in advance of any disability accommodations that may be required during the selection process.

## **3. Human Resources**

Human Resources is responsible for:

- Collaborating with supervisors, unions and employees in applying this policy and developing accommodation plans;
- Ensuring that employees are informed of their right to consult with their union about their need for accommodation;
- Providing opinion or advice to supervisors where needed;
- Communicating the availability of accommodation to employees;
- Ensuring the policy is interpreted and applied in a manner which will promote the University's obligation to provide a safe and productive work environment for all employees;
- Ensuring that all the parties involved are aware of the policy, their obligations and their rights and responsibilities in relation to the policy;
- Keeping records by placing the accommodation requests and action/s taken in employees' medical files;
- Maintaining confidentiality;
- Arranging for IME, where needed
- Accommodating employees to the point of undue hardship.

## **4. Administration**

- The Associate Vice-President, Human Resources assumes overall accountability for the interpretation and application of this policy;
- PVP must ensure appropriate resources and services are available to carry out accommodation under this policy, and also have overall accountability for the University accommodation policy and program, including ensuring the University is in compliance with all legislative requirements.

#### **5. Unions:**

Unions are expected to work with the employer and employees to promote accommodation. The union will be advised prior to the implementation of an accommodation plan if the duties or responsibilities of one or more of its members would be directly affected by said plan.

#### **Contact Officer:**

Manager, Human Resources

#### **Date for Next Review:**

June, 2015

#### **Related Policies, Procedures & Guidelines**

- a) AODA
- b) WSIB
- c) Collective Agreements

#### **Policies Superseded by This Policy:**

- a) N/A