

Policy No. & Title: P204: ACCOMMODATION FOR EMPLOYEES WITH DISABILITIES

Policy Sponsor: Executive Director, Human Resources

Effective: 2015-08-11

Next Review: 2020-08

Approvals: 2013-11-13/SLC-13-02

1. PURPOSE

The purpose of this policy is to:

- Require that employees be aware of their rights and responsibilities under the *Ontario Human Rights Code* with respect to Accommodation of employees with disabilities;
- Establish a program for Accommodation and the responsibilities of each parties in the program; and
- Support the Accommodation of employees with a Disability in a manner that respects their dignity, that is equitable and that enhances their ability to compete for jobs, perform their work and fully participate in employment at the College.

2. POLICY

This policy applies to employees who have a Disability requiring Accommodation on a Long Term or Permanent basis. Employees requiring Short Term or Temporary Accommodations are covered by policy *P201: Early and Safe Return to Work*.

Within the guidelines of the *Ontario Human Rights Code* and up to the point of Undue Hardship, Fanshawe College is committed to:

- Determining each person's Accommodation requirements on an individual case-by-case basis;
- Achieving a culture and work environment that is supportive of employees with Disabilities; and
- Complying with all applicable legislation, collective agreement provisions, College policies and procedures.

The Policy Sponsor develops and implements an Accommodation program to achieve the objectives of this policy.

3. REFERENCES

College Policy:

[P201: Early and Safe Return to Work](#)

[P202: Absence Management](#)

[P203: Accessibility for Persons with Disabilities](#)

Other:

Accessibility for Ontarians with Disabilities Act (AODA)

Occupational Health and Safety Act

Ontario Human Rights Code and general human rights information

Workplace Safety and Insurance Act and other general WSIB information

4. ADDENDA

Procedure A: ACCOMMODATION PROGRAM

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Addendum: **Procedure A: ACCOMMODATION PROGRAM**

Issued by: Executive Director, Human Resources

Effective: 2015-08-11

1. PURPOSE

The purpose of this document is to specify the steps in our Accommodation Program for employees with Disabilities.

2. DEFINITIONS

Accommodation: 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.

Accommodation Plan: A documented plan containing agreed terms that allow the employee to perform their job duties in the workplace.

Accommodation Request: A written request for accommodation where a disability imposes limitations (functional or otherwise) on an employee's ability to perform their job duties.

Disability:

- Any degree of physical 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 service animal or on a wheelchair or other remedial appliance or device;
- A condition of mental impairment or a developmental disability;
- A learning disability, or a 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*.

Employee Representative: A representative of a union local or staff association who represents employees in the employee's staff group.

Long Term or Permanent (when describing accommodations): Accommodations that are outside of the scope of a Short Term Disability Plan (STD Plan) or policy *P201: Early and Safe Return to Work*. Usually 6 months or more, ongoing and with no return to regular duties within the reasonably foreseeable future.

Short Term or Temporary (when describing accommodations): Accommodations that are within the scope of a Short Term Disability Plan (STD Plan) or policy *P201: Early and Safe Return to Work*. Usually less than 6 months with progression towards returning to full regular duties.

Third Party Agent: The company hired by the College to manage accommodation and disability claims, and to develop return to work and Accommodation Plans based on functional abilities determined by health care professionals.

Undue Hardship: The limit of the College's capacity to accommodate without experiencing an unreasonable amount of difficulty. The College is obligated to provide accommodation up to the point of undue hardship. This means that the College is not expected to provide accommodation if doing so would bring about unreasonable difficulties based on health, safety, financial or other relevant considerations. The question of when undue hardship is reached must be evaluated in the context of each specific claim for accommodation.

3. CONFIDENTIALITY

All persons involved with the accommodation plan for an employee maintain all information in strict confidence. Medical information, with the exception of functional abilities information, given to or obtained by the Health Nurse or Third Party Agent, remains the Health Nurse's or Third Party Agent's confidential files and is not shared with any party without the employee's written consent. Information regarding the functional abilities of the employee is shared only with those immediately involved in the employee's accommodation plan.

4. GENERAL RESPONSIBILITIES

The following are broad responsibilities assigned to various participants in the accommodation program. The attached Guideline A list specific responsibilities where appropriate.

4.1. Employee Responsibilities

The responsibilities of employees with disabilities who need employment accommodation in order to perform their job duties and fully participate in the workplace include:

- Identifying needs for employment accommodation that relate to their ability to perform the duties of their job or participate fully in the workplace, and bringing these to the attention of their supervisor;
- Cooperating with requests from their supervisor, Health Nurse or relevant third parties, for disability-related information about their functional capabilities, limitations and prognosis, to provide clear and sufficient information to support employment accommodation;
- Cooperating with requests (as above) to undergo independent medical evaluations, (expert assessments) when required, to support employment accommodation;
- Collaborating with their supervisor in developing an employment accommodation plan that meets their need for accommodation and treats them with dignity;

- Adhering to the employment accommodation plan, monitoring how well it is working, and advising their supervisor promptly about any difficulties;
- Advising their supervisor promptly of any changes in their disability-related needs that may require changes to their employment accommodation plan;
- Accepting reasonable accommodation or identify reason for refusal of reasonable accommodation;
- Maintaining a copy of the accommodation plan for reference and identify when this need changes due to change in position or capabilities; and,
- Where an employee is represented by a bargaining agent or other representative in the workplace, the employee may request that their Employee Representative participate in the development of the accommodation plan.

All employees are responsible for

- Treating co-workers who require employment accommodation with dignity and respect; and,
- Supporting a co-worker's employment accommodation plan.

4.2. Employer Responsibilities

4.2.1. *Program Management*

The College manages the accommodation program and directs all activities of the program in accordance with this policy and any procedures mandated under this policy. The College has the responsibility and authority for approving accommodation plans. In cases where accommodation plans are not approved, the College is responsible for communicating reasons for not approving the plan or proving undue hardship. This will be communicated verbally (where possible) and in writing to the employee from the College or its Third Party Agent.

The College may request an evaluation by an outside medical or other expert, at the College's expense, to assist with determining if accommodation can be achieved and, if so, how accommodation can be achieved.

4.2.2. *Supervisors*

Supervisors are responsible for demonstrating leadership in supporting a work environment that is respectful of everyone involved. Employees with disabilities who require employment accommodation most often first bring their request to their supervisor. In the employment accommodation process, supervisors are generally responsible for:

- Informing employees proactively about their rights and options in relation to the employment accommodation process;
- Seeking advice and guidance from Human Resources when appropriate;
- Once the need for accommodation has been identified, initiating the procedure to review and plan an appropriate accommodation for their employee(s);

- Respecting the confidentiality of disability-related information. Supervisors are not permitted to ask an employee to disclose a disability;
- Working collaboratively with the employee and any third-party participants, such as external experts or Employee Representatives, in the employment accommodation process;
- Exploring, in cooperation with the employee, a range of individualized employment accommodation solutions that respect the dignity of the employee;
- Addressing issues around co-worker cooperation for the proposed employment accommodation solutions;
- Formalizing, implementing and adhering to the employment accommodation plan in a timely manner;
- Maintaining a copy of the accommodation plan;
- Monitoring and revising the employment accommodation plan in cooperation with the employee, to respond to changes in employee or operational needs or circumstances;
- Advising the employee about upcoming operational changes that may cause them to need new or different forms of employment accommodation;
- Assisting in transition to new positions through development of an accommodation transition plan with new supervisors or departments; and,
- Reminding the employee to contact the Emergency Management Office to create an individualized emergency plan if necessary.

4.2.3. *Human Resources Representative Responsibilities*

For accommodation issues, the Human Resources Representative represents the College in matters of legislative and collective agreement compliance and works with the Return to Work (RTW) Coordinator as appropriate. The Human Resources Representative assists the parties in providing appropriate accommodation measures, supports the supervisor in their duties, and informs the employee in respect of employment benefit entitlements. The Human Resources Representative assists supervisors in ensuring that accommodations are considered during review of performance, deployment and career planning.

4.2.4. *Health Nurse Responsibilities*

The Health Nurse, along with the Third Party Agent, coordinates the process to gather information required to support an accommodation and create the accommodation plan. The Health Nurse or RTW Coordinator facilitates co-operation between the supervisor, the Human Resources representative, the Employee Representative and the employee in developing and signing all accommodation plan agreements.

4.2.5. *RTW Coordinator Responsibilities*

The RTW Coordinator oversees the accommodation program by:

- Providing strategic advice to management, administration and other applicable parties with respect to employee accommodation;

- Ensuring that supervisors are aware of College policies, procedures and legislative requirements pertaining to employee accommodations;
- Ensuring that all accommodation plans are in compliance with legal statutes, policy and current College business needs;
- Developing recommendations on policies and procedures relating to employee accommodations; and,
- Managing and coordinating contract services related to accommodations, and overseeing the employee health centre and related staff.

4.3. Employee Representative Responsibilities

- Cooperating with the employee and supervisor in considering reasonable accommodation options
- Supporting and participating in cross-employee group accommodation planning
- Supporting of collective agreements and policies that facilitate accommodation of employees with disabilities

5. **ACCOMMODATION PROGRAM STEPS**

Step 1: Recognize the Need for Employment Accommodation

A request for employment Accommodation may be made when:

- An employee self-discloses to their supervisor that they have a disability and need an employment accommodation to perform their job duties or fully participate in the workplace; or,
- The supervisor identifies that an employee is unable to perform their job duties or fully participate in the workplace due to disability.

The employee does not have to disclose the nature of their disability to the supervisor, and the supervisor may not ask about the nature of the disability.

Step 2: Identify the Accommodation Request Details

The supervisor documents the accommodation request details. For example: Identification of the job duties the employee or supervisor has identified as barriers; proposed or requested accommodations, such as requesting physical changes to the work environment or changes to work schedules.

Step 3: Initiate the Accommodation Review Process

Once the need for an accommodation plan is established, the supervisor emails nonocc@fanshawec.ca to initiate the referral to the Third Party Agent. The email notification should include the employee name, contact information and details about the requested accommodation plan.

Step 4: Conduct an Accommodation Review

The case manager from the Third Party Agent contacts the employee to verify the accommodation request and provide physician's forms to the employee to have completed with objective medical documentation to support the accommodation request. The employee returns the forms with medical documentation to the Third Party Agent. The third party case manager and health consultants review

the objective medical documentation to support the accommodation claim. If the medical evidence does not support the accommodation request, the employee will be notified verbally and in writing and will be given the opportunity to provide additional objective medical documentation to appeal the decision.

During the accommodation review process, the College or its Third Party Agent may also request an evaluation by an outside medical or other expert to assist with determining if accommodation can be achieved and if so, how accommodation can be achieved. The cost of such evaluation shall be at the College's expense.

The case manager contacts the employee's supervisor to determine ability to support the accommodation request. If the supervisor is not able to accommodate the request, the supervisor can suggest alternative accommodation arrangements that meet the required needs of the employee. The case manager promotes discussion between the employee, supervisor and human resources to come up with best options for reasonable accommodation.

Step 5: Finalize the Accommodation Plan

The case manager provides the documented accommodation plan. The documented accommodation plan includes the following: employee particulars including name, position, department and supervisor; accommodation plan start date and end date or review date; abilities and restrictions; accommodation plan details; agreement and signatures. The Health Nurse or RTW Coordinator arranges a meeting for all parties to review and sign off on the plan. Each participant receives a copy of the signed accommodation plan. Employees may request that their Employee Representative participate in the accommodation planning and review meetings by notifying the Health Nurse or RTW Coordinator that they wish to include them in the invitation to such meetings. A copy of the signed accommodation plan is filed in the employee's health file. All information provided to the employee in regards to the accommodation process will be provided in a format that takes into account their accessibility needs.

During the accommodation plan meeting, the supervisor, health nurse or RTW coordinator will remind the employee to contact the Emergency Management Operations office to arrange to have a personal emergency plan developed and implemented if required.

Step 6: Implement the Agreed Accommodation Plan

The supervisor and employee implement the accommodation plan once there is agreement from all parties. Timeliness in implementing the accommodation solutions is important. If there is a delay in implementation of the plan, this should be communicated to the parties and proposed targets identified or solutions to the delay identified.

The supervisor has budgetary responsibility for any costs associated with implementing the accommodation plan requirements. The supervisor will submit a requisition for any items to be purchased or work orders for any alterations to the work environment. Inform the employee of all timelines and arrange for temporary accommodations until the work order is completed or equipment has been installed.

Step 7: Follow-up and Periodic Reviews of the Accommodation Plan

The success of an employment accommodation plan in creating an equitable environment for the employee can only be determined once the employee has had an opportunity to work with the accommodations in place.

The supervisor should check with the employee to discuss whether the accommodations have addressed the workplace barriers.

The employee or supervisor should re-engage in the accommodation process if the employee's situation changes or the implemented accommodations have not successfully addressed the barriers.

Accommodation plans are reviewed yearly or as appropriate to ensure the plan is still reasonable based on the medical requirements and effective for the college operations.

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