

**YORK UNIVERSITY**

**ACCOMMODATION**

**PROGRAM**

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University Policies, Procedures & Regulations Database

University Policy

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Accommodation in Employment for Persons with Disabilities

# : Pol 016

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Description: Establishes York's commitment to a barrier-free workplace; applies to students, faculty and staff; Has associated procedure

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Notes: Approved by UEC: 1994/05/26; Revised 1999/11/30; Date Effective: 1994/05/26

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Approval Authority: President

Signature: "Susan Mann"  
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Policy

York University is committed to working towards a barrier-free workplace and to expanding the accessibility of the workplace to persons with disabilities.

Accordingly, York will attempt to accommodate both employees and position applicants with disabilities in a way which respects their dignity, is equitable and which enhances their ability to compete for positions, perform their work and fully participate in employment at York.

It is the University's intention that accommodation will be provided both individually (to meet the specific needs of individuals), and systemically (toward the goal of making the University as a whole more accessible to employees with disabilities).

Without limiting the generality of the foregoing, and as a minimum, the University will attempt to provide such accommodation as will enable the position applicant to proceed equitably through the application process and will enable the employee to perform the essential duties of the position.

The nature and level of accommodation to be provided, and the implementation of the University's commitment to such accommodation for both employees and prospective employees, will be determined in accordance with guidelines and procedures established from time to time by the Vice President, Finance & Administration.

## A. DEFINITIONS AND EXPLANATIONS

### 1. Disability

“Disability” or “handicap” refers to all disabilities protected in the Human Rights Code, R.S.O. 1990, Ch.H.19 and is defined in sec.10 of the Code as:

- (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 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 on a wheelchair or other remedial appliance or device,*
- (b) *a condition of mental retardation or impairment,*
- (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.*

### 2. Accommodation

Accommodation is an adaptation or adjustment. It applies to recruiting, selection and employment including training and career development. It may be short or long-term with the goal of enabling the person with disabilities to perform the essential duties of the position.

**Examples of accommodation include but are not limited to:**

#### (i) Communications Services

“Communications services” includes captioning, conversion of print to braille, audiotapes or enlarged print.

**(ii) Human Support Services**

“Human Support Services” refers to personnel provided to assist in accommodation; examples include attendants, sign language and oral interpreters, and readers.

**(iii) Technical Aids and Devices**

“Technical aids and devices” includes, environmental control units (for example, remote control to open/close doors, operate lights), hoists, grips, Telephone Devices for the Deaf, infrared systems, FM broadcast systems, braille computer printers, optical character recognition systems, keyboard adaptations and the training and technical support required to use technical aids and devices.

**(iv) Position Redesign**

“Position redesign” refers to the modification of duties and/or the hours of work on either a short or long-term basis.

**(v) Employment Policy and Practice Modifications**

“Employment policy and practice modifications” refers to the practice of waiving or modifying a particular working condition to provide accommodation, e.g., by providing flexible hours.

**(vi) Workplace Modifications**

“Workplace modifications” refers to physical or technological alterations of the workplace, and includes specialized or adjustable furniture, modified lighting, handrails, door access and retrofitted facilities.

**3. Work Hardening**

Work hardening refers to a program delivered by an external service provider with a view to increasing the employee’s tolerance for returning to the workplace.

**4. Ergonomics**

Ergonomics includes task and/or equipment modification to enable the worker to accomplish the essential duties of his/her position.

## **5. Essential Duties**

The essential duties of a position are those duties necessary to achieve the overall objective of the position.

To determine the essential duties of a position, consideration should be given to:

- (i) how often each duty is undertaken
- (ii) proportion of time spent on each duty
- (iii) impact of removing a duty
- (iv) description of current position, and
- (v) normal productivity expected in the position

## **6. Undue Hardship and York as a Single Employer**

The Human Rights Code and the Workplace Safety and Insurance Act view the University as a single employer. The term “undue hardship” is interpreted by the Human Rights Commission and the Workplace Safety and Insurance Board in a manner consistent with the resources of the entire University.

## **B. GENERAL GUIDELINES**

1. Accommodation shall address current employment limitations only, unless future limitations are known and can reasonably be accommodated coincident with the present accommodation.
2. Accommodation shall address such needs as are disclosed by the employee and which directly relate to the employment, or such needs as are disclosed by the position applicant and which directly relate to the application process.
3. The employee shall participate in all stages of the accommodation process together with the appropriate department and the Department of Occupational Health and Safety (DOHS).

Other participants in the process may include as appropriate: the Department of Human Resources/Employee Relations (DHR/ER), unions/employee associations, health care professionals and insurers.

4. The employer shall attempt to re-employ a worker who has been unable to work as a result of illness or injury in a manner consistent with the Workplace Safety and Insurance Act, and/or the University's policies and practices, and collective agreements.
5. The nature of the accommodation provided may include the following types of accommodation, as appropriate:
  - (i) communications services
  - (ii) human support services
  - (iii) technical aids and devices
  - (iv) position redesign
  - (v) employment policy and practice modifications
  - (vi) workstation modifications

## **C. HIRING PROCESS AND JOB APPLICANTS WITH DISABILITIES**

1. Applicants may request accommodation at any time during the hiring process.
2. Accommodation for applicants for York positions shall be co-ordinated through the hiring unit/department. Requests for assistance shall be directed to the DHR/ER or the DOHS.

## **D. SHORT-TERM ACCOMMODATION OF EMPLOYEES**

If injury or illness is likely to prevent an employee from fulfilling the essential duties of his/her 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 DOHS.
2. DOHS shall meet with the employee to explain the work accommodation process and to obtain relevant medical information. DOHS shall then prepare an appropriate accommodation plan for the approval of the employee's unit/department.
3. Where the employee is not able to perform the essential duties of the pre-injury/pre-illness position, the employee may require any of the following:
  - (i) an extension of the accommodation period
  - (ii) a new accommodation plan
  - (iii) work hardening
  - (iv) a return to leave for further medical gains
  - (v) an assessment for a long-term accommodation

## **E. LONG-TERM ACCOMMODATION OF EMPLOYEES**

The University shall endeavour to provide long-term accommodation to enable an employee with an injury, illness or disability to fulfill the essential duties of the position. Long-term accommodation typically modifies the worksite, tools, duties and/or hours.

1. All requests for long-term accommodation shall be directed to the DOHS.
2. DOHS shall meet with the employee to explain the process and obtain relevant information such as medical information and releases.
3. DOHS shall contact the unit/department to obtain information about the position, and to determine if an independent medical assessment is required at this stage. If the employee's own position is not available, the employee will be referred to DHR/ER.
4. DOHS shall provide the employee's unit/department with an assessment so that the unit/department can determine if long-term accommodation is possible.
5. If the specific approved long-term accommodation cannot be provided immediately, consideration will be given to interim methods of providing accommodation.
6. If the employee's own position is available, but the initial decision is that an accommodation cannot be made by the unit/department,
  - (i) DOHS shall notify the employee, the union, DHR/ER, and
  - (ii) DOHS shall arrange for an independent medical assessment.
7. The independent medical assessment shall allow the University to determine whether,
  - (i) the employee can perform the essential duties of the position with an accommodation if necessary; or
  - (ii) the employee should receive further intervention such as work hardening before an accommodation can be provided, or
  - (iii) the employee's limitations cannot be accommodated in his/her own position, and the employee should be referred to DHR/ER.
8. The University shall continue to use its best efforts to place the employee in an alternative position for which the employee is qualified in accordance with the Workplace Safety and Insurance Act, University policies, practices and collective agreements. The employee must be qualified and able to fulfill the essential duties of the alternative position, with accommodation if necessary.

## **F. APPLICATION TO THE ACCOMMODATION FUND**

1. A central Employment Accommodation Fund ("The Fund") shall be administered by the Department of Occupational Health and Safety.
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 as follows:
  - (i) the purchase or modification of special equipment,
  - (ii) initiation of the accommodation,
  - (iii) special renovations which would be used by the employee that do not fall within budgetary allocations for general accessibility.
3. Where standing agreements for funding for accommodation of persons with disabilities exist between a collective bargaining unit and the employer, the employee with a disability and his or her supervisor or academic administrator shall first make application for these funds through the processes used by the specific collective bargaining unit. When such an application is unsuccessful in obtaining funding or obtaining full funding from this source, application may be made to the Fund for the unfunded cost of the accommodation.
4. When collective agreements do not provide for funding, the cost of initial minor accommodation up to and including \$500 per case will be assumed by a local area, with additional costs to be the subject of an application to the Fund.
5. All equipment purchased hereunder shall be and remain the property of York University.
6. 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 Vice-President for the area in which the employee with a disability works, from time to time.
7. In any year in which the Fund allocation is insufficient to meet the needs identified within that year, the Director of Occupational Health and Safety may make application for additional funding to the Vice-President of Finance and Administration detailing the need for additional funding.

## **G. SUMMARY OF OPERATIONAL RESPONSIBILITIES**

Operational responsibilities for implementation of the Accommodation in Employment for Persons with Disabilities Policy are shared by all members of the York University community. Some areas of the University, however, are specifically accountable for implementation of segments of this Policy and procedure.

### **President**

The President is responsible for the approval of the Accommodation in Employment for Persons with Disabilities Policy.

### **Vice-President Finance & Administration**

The Vice-President (Finance & Administration) is responsible for:

- (i) approving the guidelines and procedures for Accommodation in Employment of Persons with disabilities, which may be revised from time to time;
- (ii) financing, through the Employment Accommodation Fund, accommodation costs according to specific criteria.

### **Department of Human Resources/Employee Relations (DHR/ER)**

The Department of Human Resources/Employee Relations is responsible for:

- (i) ensuring that recruiting and hiring are conducted in accordance with University policies, procedures and collective agreements
- (ii) advising applicants and employees of relevant University policies, procedures and collective agreements and the mechanisms available to them for pursuing solutions
- (iii) providing disability management services directly or in conjunction with the Department of Occupational Health and Safety
- (iv) providing assessment and training where required
- (v) facilitating position placements where appropriate
- (vi) advising on contractual requirements concerning employee accommodations

### **Department of Occupational Health and Safety (DOHS)**

The Department of Occupational Health and Safety is responsible for:

- (i) co-ordinating accommodations of position applicants and employees as appropriate;
- (ii) assessing in conjunction with the academic administrator, local manager and/or supervisor and the employee the position requirements, and the employee's functional abilities for accommodation requirements;

- (iii) developing an appropriate accommodation plan for applicants and employees with disabilities according to the guidelines and procedures of this Policy;
- (iv) administering the Employment Accommodation Fund for persons with disabilities;
- (v) monitoring and evaluating accommodations;
- (vi) providing an annual report on accommodation to the Board of Governors Audit Committee for review and approval.

### **Academic Administrators, Local Managers and Supervisors**

Academic Administrators, Local Managers and Supervisors are responsible for:

- (i) ensuring that recruitment and hiring are conducted in accordance with University policies, procedures and collective agreements;
- (ii) advising applicants and employees of the Accommodation in Employment for Persons with Disabilities Policy and the procedures available for accommodation;
- (iii) promoting an environment supportive of requests for accommodation;
- (iv) working with DOHS in the development of appropriate accommodation for applicants and employees in accordance with the guidelines and procedures of the Accommodation in Employment for Persons with Disabilities Policy;
- (v) implementing and overseeing accommodations and facilitating the integration of the employee being accommodated

### **Employees**

Employees are responsible for:

- (i) disclosing the particulars of their need for accommodation
- (ii) participating in the accommodation process e.g., by providing relevant medical information in a timely manner, identifying the essential duties that they are able or unable to perform

### **Centre for Human Rights and Equity and Office of the Counsel**

The Centre for Human Rights and Equity and the Office of the Counsel is responsible for providing advice on Procedures for Accommodation of Applicants and Employees with disabilities