Know your Rights

A guide for Students, Faculty & Staff

WHAT IS A DISABILITY?

Disability is defined as:

1. 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,

2. A condition of mental impairment or a developmental disability,

3. A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

4. A mental disorder, or

5. An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

Note that according to the Ontario Human Rights Commission, defining disability is a complex, evolving matter. For this reason, the term "disability" covers a broad range and degree of conditions and the above list of conditions is illustrative rather than an exhaustive list.

YORK UNIVERSITY POLICY

Pursuant to its commitment to sustaining an inclusive, equitable community in which all members are treated with respect and dignity, and consistent with applicable accessibility legislation, York University shall make reasonable and appropriate accommodations in order to promote the ability of students with disabilities to fulfill the academic requirements of their programs, and for employees to fulfill the essential requirements of their positions. York University's policy aims to eliminate systemic barriers to participation in academic activities by students with disabilities, and in employment by workers with disabilities.

WHAT IS THE DUTY TO ACCOMODATE?

This pertains to the obligation of employers andservice providers to their employees, receipeints of service and/or in the case of a university, the faculty, students and staff. For example, it means ensuring that an employee who is able to work can do so, and that a student who is able to study can do so.

In practice, this means that the employer or school must accommodate the employee or student in a way that, while not causing the employer undue hardship or compromising academic integrity, will ensure that the employee can work or that the student can study.

The purpose of the duty to accommodate is to ensure that persons who are otherwise fit to work or study are not unfairly excluded where working or learning conditions can be adjusted without undue hardship.

PRACTICING ACCOMMODATION

- The search for accommodation is a multi-party inquiry, involving the employer/service provider, the person seeking accommodation, and a trade union where applicable.
- The employer or service provider has a duty to accommodate.
- A person seeking accommodation also has a duty to assist in securing an appropriate accommodation and his or her conduct must therefore be considered in determining whether the duty to accommodate has been fulfilled.
- When an employer or service provider has initiated a proposal that is reasonable and would, if implemented, fulfill the duty to accommodate, the person seeking accommodation has a duty to facilitate the implementation of the proposal.
- A person seeking accommodation is also obligated to accept reasonable accommodation and the employer's or service provider's duty is discharged if a proposal that would be reasonable in all the circumstances is turned down.

UNDUE HARDSHIP

The concept of undue hardship is one basis on which the duty to accommodate may be limited. The onus lies on the service provider or employer, who has failed to accommodate a person with disability, to prove undue hardship with evidence.

An employer or school must take reasonable measures short of undue hardship to accommodate an employee or student. The use of the term "undue" infers that some hardship is acceptable. More than a mere negligible effort is required.

GUIDING PRINCIPLES

Dignity and Independence

Accommodation enables persons with disabilities to access employment, public services, and facilities as independently and seamlessly as possible, in the same way as any employee or student, to the extent possible. It is a fundamental human right for persons with disabilities to have independent access to employment and services in the same comfort, dignity, safety, and security as those without disability-related limitations.

Segregated treatment in services or employment for people with disabilities is less dignified and is unacceptable, unless it can be shown that integrated treatment would pose undue hardship or that segregation is the only way to achieve equality.

Integration should be recognized as the norm of general application because of the benefits it generally provides. Any reasonable alternative form of accommodation must respect the dignity of the person with disabilities.

Individualized Assessment

The importance of the individualized nature of the accommodation process cannot be minimized. The scope of the duty to accommodate varies according to the characteristics of each enterprise, the specific needs of each employee or student, and the specific circumstances in which the decision is to be made. Throughout the employment relationship or educational relationship, the employer or school must make an effort to accommodate the employee or student.

WHAT IS ABLEISM?

[Ableism] may be defined as a belief system, analogous to racism, sexism or ageism, that sees persons with disabilities as being less worthy of respect and consideration, less able to contribute and participate, or of less inherent value than others. Ableism may be conscious or unconscious, and may be embedded in institutions, systems or the broader culture of a society. It can limit the opportunities of persons with disabilities and reduce their inclusion in the life of their communities. (Definition from the Law Commission of Ontario)

LINKS TO YORK RESOURCES

For more information, contact the Centre for Human Rights, Equity & Inclusion (CHREI).

YorkU Human Rights Policy

https://www.yorku.ca/secretariat/policies/policies/human-rights-policy-and-procedures/

YU DEDI Strategy

https://www.yorku.ca/dedi-strategy/

YU DEDI Toolkit

https://www.yorku.ca/dedi-strategy/toolkitdev/

Academic Accommodation for Students with Disabilities

https://www.yorku.ca/secretariat/policies/policies/academic-accommodation-for-students-with-disabilities-policy/

EXTERNAL RESOURCES

Ontario Human Rights Commission

https://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability

York University's Centre for Human Rights, Equity and Inclusion (CHREI) promotes and builds a respectful, equitable, diverse, and inclusive university community. We strive to be a leader in providing accessible, impartial, non-adversarial, and confidential programs and services that uphold human rights, facilitate equitable access to opportunities, and champion diversity and inclusion.

We provide free services to current York students, faculty, and staff. To consult our team, call, leave us a message or e-mail us. Leave your name, email, and/or phone number and we will respond within 3 business days.

CONTACT US:

CENTRE FOR HUMAN RIGHTS, EQUITY & INCLUSION (CHREI)

Room 2070, Victor Phillip Dahdaleh (TEL) Building 4700 Keele St. Toronto
416-736-5682
https://www.yorku.ca/services/rights/
rights@yorku.ca