



Name of Manual:	Human Resources	Policy # 30.0	Page 1 of 5
Policy Title:	WORKPLACE ACCOMMODATION ON THE BASIS OF DISABILITY	Original Date:	November 2010
Prepared by:	Resource Committee	Reviewed Date:	March 2020
Approved by:	Board of Directors	Approval Date:	May 2020

1. INTRODUCTION

In keeping with the spirit of encouraging good mental and physical health of employees, the North Lambton CHC encourages flexibility when developing a workplace accommodation plan for a person with a temporary or permanent disability who is able to perform the essential duties of their own job or other available work and requests accommodation in order to do so.

North Lambton CHC will work in co-operation with employees in accommodating an employee who is returning to work after an absence where the employee demonstrates an ability to perform the essential duties of the job or available alternative work. (See **HR 31.0 – Early and Safe Return to Work**).

Accordingly, subject to undue hardship, the appropriateness of a permanent, interim, or phased-in accommodation is assessed on a case by case basis.

Health and Safety requirements established by law, regulations, rule, practice, and procedure may create a barrier to accommodation and will involve further assessment to determine any undue hardship.

Any and all requests for accommodation as well as any supporting documentation provided in support of the modified work plan will be held in complete confidence and only shared with those parties involved with the accommodation, with the prior full consent of the employee.

2. PURPOSE

The purpose of this Statement of Policy and Procedure is to establish a process by which persons with a disability may request accommodation.

3. SCOPE

This Statement of Policy and Procedure applies to all employees of North Lambton CHC.

4. RESPONSIBILITY

Employees and employers have a corresponding duty and responsibility during accommodation for ensuring the principles outlined in this Statement of Policy and Procedure are adhered to throughout all business activities.

Employees:

- (a) Request accommodation.
- (b) Explain why accommodation is required so that needs are known.

- (c) Make his/her needs known to the best of his/her ability, preferably in writing.
- (d) Answer questions or provide information regarding relevant restrictions or limitations, including information from health care professionals, where appropriate and as needed.
- (e) Participate in discussions regarding possible accommodation solutions.
- (f) Co-operate with any experts whose assistance is required.
- (g) Meet agreed-upon performance and job standards once accommodation is provided.
- (h) Work with the employer on an ongoing basis to manage the accommodation process, and.
- (i) Discuss his/her accommodation needs only with persons who need to know. This may include the Executive Director, Team Leader or Human Resources staff.

Employers:

- (a) Accept the employee's request for accommodation unless there are legitimate reasons for acting otherwise.
- (b) Obtain expert opinion or advice where needed.
- (c) Take an active role in ensuring the alternative approaches and possible accommodation solutions are investigated, and canvass various forms of possible accommodation and alternative solutions as part of the duty to accommodate.
- (d) Keep record of the accommodation request and action taken.
- (e) Maintain confidentiality.
- (f) Limit requests for information to those reasonably related to the nature of the limitation or restrictions to be able to respond to the accommodation request.
- (g) Grant accommodation requests in a timely manner, to the point of undue hardship to the organization.
- (h) The cost of any required medical information or documentation, for example doctors' notes and letters setting out accommodation needs should be paid for by the employer; and
- (i) Where accommodation would cause undue hardship, explain this clearly to the employee and be prepared to demonstrate why this is the case.

5. DEFINITIONS

5.1 "Disability" means

- (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 intellectual cognitive 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 illness, 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*.

5.2 **“Accommodation”** means an effort, short of undue hardship, to accommodate the needs of persons who are protected by the Ontario Human Rights Code. The principle of accommodation involves three factors: dignity, individualization, and inclusion.

5.3 **“Alternative Work”** means different work or work that does not necessarily involve similar skills, responsibilities, or compensation. Alternative work may be either temporary or permanent:

- (a) Temporary Alternative Work – a work plan where a disability leaves an employee temporarily unable to perform the pre-disability job. Temporary alternative work can also be an appropriate accommodation where the nature of the employee’s disability and its limitations are temporary or episodic.
- (b) Permanent Alternative Work – a reassignment to a vacant position when the permanent modification to the essential duties of the employee’s current position would cause undue hardship. The vacant position must be vacant within a reasonable amount of time and does not involve a promotion. When a reassignment takes place, the person must be qualified for the reassigned position. Where an equivalent vacant position does not exist, a lower position could be offered.

5.4 **“Undue Hardship”** means where an employer can provide evidence that the financial cost, including outside resources of funding, if any, of the accommodation, or health and safety risks would create undue hardship for the employer.

5.5 **“Essential Duties”** To determine the essential duties of a job, the Team Leader reviews how often each duty is undertaken; the proportion of time spent at each specific duty; the effect on the job outcome if a duty is removed; the effect on the process before or after a duty, if a duty is removed; the current and relevant job description, and the normal productivity expected in the job.

6. PROCEDURE

6.1 Employees who wish to raise a potential accommodation issue shall do so by submitting a request for accommodation, preferably in writing, to their Team Leader explaining why the accommodation is required.

6.2 When necessary to facilitate the assessment and determination of the accommodation, the employee will be asked to participate in discussions with the Team Leader regarding possible accommodation solutions; answer questions or provide information, including information from health care professionals, where appropriate and as needed:

- (a) An employee is entitled to bring a support person to the meeting(s); this person may be internal or external to North Lambton CHC and would be bound to the same confidentiality disclosure restrictions as the Team Leader and employee.

6.3 The Team Leader, in discussion with the employee, will work to separate the non-essential duties of the job; where the employee is unable to carry out the non-essential duties, the Team Leader will re-assign these duties.

- 6.4 If the essential duties cannot be performed in alternative ways, the Team Leader will explore other accommodation suitability of resources that may enable the employee to perform the essential duties.
- 6.5 The preference is to accommodate the employee in their pre-disability job; where suitable accommodations cannot be made, the Team Leader will explore available alternative work within the North Lambton CHC.
- 6.6 The Team Leader and the employee will finalize the accommodation plan for review by the Executive Director or designate. The Team Leader shall communicate any additions, omissions, or changes to the employee.
- 6.7 With respect to “permanent” workplace accommodations, it is expected that the employee and Team Leader will meet periodically, but not less than annually, to review the suitability of the accommodation plan.
- 6.8 With respect to “temporary” accommodations it is expected that the modified work plan document will incorporate a phase-in period suitable to the individual needs of the employee and the employer. The duration of the plan depends on the ability of the employee to perform the essential duties of the job, considering the unique circumstances of the individual needs as well as the prognosis for the employee’s full recovery. Follow-up meetings between the employee and the Team Leader will be set up periodically, but initially not less than weekly, to review the suitability of the accommodation plan, progress made, etc. Updated medical information may be required to assess changes to the plan and will be requested on an as needed basis.
- 6.9 Temporary reassignment to alternative work is not a guarantee to a limitless accommodation; progress to achieving full recovery is expected; where no progress is apparent or the prognosis for full recovery changes, a reassessment of the workplace accommodation plan will be required. Reference HR 27.0 Early and Safe Return to Work.
- 6.10 If the employee is not satisfied with the written decision regarding the request for accommodation, the employee should seek to resolve the problem through NLCHC’s internal procedures. However, these procedures do not replace an individual’s right to file a complaint with the Ontario Human Rights Commission. A complaint filed with the Commission may be withdrawn at any time during the complaint process.

Policy Reviewed and Adopted by Resources Committee:

Date: 12 May 2020

Resources Representative: *[Signature]*

Policy Reviewed and Adopted by Board of Directors:

Date: 26 May 2020

Board of Directors Representative: *[Signature]*

Policy Approved by:	Signature:	Date:
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