

No. E08	Pages 1 of 7
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

Policy Statement

The purpose of this procedure is to provide a clear statement of the obligations and responsibilities in the College's accommodation process and to provide guidance and standards for its implementation.

Cambrian College is committed to ensuring the College complies with the *Ontario Human Rights Code* with respect to accommodation of persons with disabilities by:

- ensuring that each employee with a disability be considered individually, on a case-by-case basis, to determine whether the employee's present requirements can be accommodated;
- achieving a culture and work environment that is supportive of employees with disabilities; and
- ensuring compliance with all applicable statutes (such as the *Ontario Human Rights Code* and the *Workplace Safety and Insurance Act*), collective agreements and College policy; and establish a process for accommodation that is consistent with the principles of confidentiality and shared responsibility.

The fundamental principles underlying this procedure include:

- shared accountability and responsibility amongst the individual requiring accommodation, the individual's supervisor, senior management, the appropriate union and the College;
- respect for the dignity of the individual and the confidentiality of the information involved;
- consultation involving all relevant shareholders in the process and plan design;
- communication and exchange of information sufficient to ensure that the appropriate accommodation can be achieved and maintained.

No. E08	Pages 2 of 7
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

Definitions

Disability

In accordance with section 10 (1) of the *Ontario Human Rights Code*, disability is defined as follows;

- (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 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;
- (b) a condition of mental 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 disorder; 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.

In addition, in accordance with section 10(3) of the *Code*, with respect to past or presumed disabilities, individuals have the right to equal treatment without discrimination because a person has or has had a disability or is believed to have or have had a disability.

Accommodation

This refers to services, adaptations, or adjustments, including the use of technology, which enable persons with disabilities or illness to perform their job and/or work tasks. Accommodation may be necessary on a temporary or permanent basis and is a dynamic process including the identification and/or removal of barriers within the work environment or in how work is performed.

No. <i>E08</i>	Pages <i>3 of 7</i>
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

Definitions (continued)

Undue Hardship

Under the *Human Rights Code* the College’s responsibility is to accommodate up to the point of undue hardship. It is, unfortunately, occasionally the case that the individual employee’s accommodation requirements simply cannot be met in the workplace – regardless of services, adaptations, or adjustments, or technology. In other cases, the accommodation may cause the College undue hardship as defined by the *Code*.

Factors to consider in assessing whether accommodation would cause undue hardship include:

- Cost – will amount to undue hardship if it is quantifiable, shown to be related to the accommodation, and so substantial that it would alter the essential nature of the enterprise or activity or so significant that it would substantially affect its viability.
- [Lack of]Outside funding sources – includes funds available to the individual through government programs, fund that would assist employers and service providers to defray the cost, and funding programs to improve accessibility for persons with disabilities.
- Health and Safety – requirements must be met to determine whether the requirement can be waived or modified. Where an identified risk is so significant that it outweighs the benefits of modification or waiving of the safety requirement, it will be considered to create an undue hardship. No assumption of risk by the person with a disability may place another individual at risk.
- Operational impact or availability of suitable alternatives.

Essential Duties

Accommodation is directed at ensuring the employee is able to perform the essential duties of the job. Essential duties are generally those duties which are performed most frequently in the position and which occupy the majority of a position’s time. In addition, they may include less frequently performed duties for which there is not alternate resource, for example, duties which might arise in an emergency situation. In general, ancillary or infrequently performed duties may be required to meet the employee’s need for accommodation.

	No. <i>E08</i>	Pages <i>4 of 7</i>
Title Duty to Accommodate - Accommodation Procedure for People with Disabilities	Approved by: Executive Committee	
	Effective Date June, 2008	Replaces n/a

Definitions (continued)

Essential duties which are not capable of accommodation define the position and need not be transferred. Each duty must be analyzed carefully against the employee’s requirements and available accommodations.

Information and Confidentiality

The employer has the right and the employee has the obligation to disclose information to the accommodation provider as it pertains to the need for accommodation, including any restrictions or limitations. Where the accommodation process requires the release of confidential information to an agent or third party, the agent or third party and any person delegated by them will be required to ensure that confidentiality is protected and that the information obtained is kept in a secure location and is used solely for the purpose that the release was required.

Personal information concerning an employee’s disability must be managed in a manner consistent with the Cambrian College Internal Privacy Policy. A consent will be obtained from the employee requesting accommodation at the outset of the process to disclose that information which relates to the accommodations required in the employment context. This information may then be released to the College supervisors, managers, third party advisors or service providers on a need to know basis, without the need for further, specific consent for each release. While all information provided will be evaluated in the context of the request for accommodation, the College may decline a request for accommodation in the event of insufficient disclosure.

In the case of bargaining unit employees, the employee will also be asked whether they will consent to the disclosure of the information to the Union in the context of the accommodation request.

No. <i>E08</i>	Pages <i>5 of 7</i>
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

Procedure for Requests for Accommodation

1. Identifying the Need for Accommodation

The first step is for the need for accommodation to be identified. An employee who believes that an accommodation is required may first approach his or her supervisor and identify the need for accommodation. This may be done verbally or in writing. The Supervisor will then take that request to Human Resources for advice and consultation. Alternatively, the employee may approach Human Resources (the Benefits Specialist) to discuss the need for accommodation.

In addition, a Supervisor or Manager who believes that an employee may benefit from an accommodation should consult with Human Resources to determine what the appropriate approach should be. Other possible sources for identifying the need for accommodation include the College disability consultant or the employee's union representative.

An employee whose case is already managed by the College's disability consultants may also advance an accommodation request through this channel.

Finally, employees returning to work after an absence due to illness or injury (short or long term disability or a Workplace Safety and insurance claim) will be assisted in accordance with the College's Return to Work policy. This may also result in an accommodation request of short or longer term duration.

2. Processing the Request

Human Resources directly, or through a disability consultant, will provide a centralized coordinating function in terms of resolving, tracking and monitoring accommodations. This will include the setting of meetings, the identification of required documentation and consultation and communication with all stakeholders as required.

In order for the accommodation request to be processed it will be necessary to have sufficient information. This should include confirmation from a recognized medical practitioner that accommodations are required and an outline of any restrictions which the employee faces.

No. E08	Pages 6 of 7
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

During the course of the accommodation process, additional or more precise information may be required in order to ensure the optimal accommodation is achieved where possible.

Human Resources will ensure that a meeting is held to review the initial request and to identify information requirements. The employee will be responsible for satisfying the need for sufficient medical information to identify the need accommodation and the nature of the accommodation required to the College's satisfaction. It is recognized that the process may take some time to conclude.

Accommodation requests will be processed in as timely a manner as possible, recognizing that the College needs time to explore options once the need has been identified and recognizing as well that the process of obtaining adequate information from appropriate medical and other health care professionals can be protracted. Where appropriate and available, interim measures, such as temporary placements will be considered.

The cost of any required medical information or documentation required by the College beyond what was initially provided by the employee to initiate the request will generally be borne by the College.

3. **Development of the Accommodation Plan**

If it is determined that an accommodation plan is required, the College will prepare an accommodation plan tailored to the individual needs of the employee. This may include:

- continuation in the existing position with modifications, if required, to the essentials of the job;
- placement in an alternate but comparable vacant position which meets the accommodation needs of the employee;
- placement in alternate employment within the College which meets the accommodation needs of the employee.

No. E08	Pages 7 of 7
Approved by: Executive Committee	
Effective Date June, 2008	Replaces n/a

Title Duty to Accommodate - Accommodation Procedure for People with Disabilities

4. Storage of the Accommodation Plan

The accommodation plan will be filed in a separate location in the Human Resources from the employee's Personnel file. Access to the plan will be restricted to those who need the information to insure the plan is carried out.

5. Accommodation Plan not Available

In the event that it is concluded that the employee's requirements cannot be accommodated, the College will communicate directly with the employee and will provide its reasons for its conclusion. Information with respect to the request will be maintained.

General Statement

An employee who believes that the accommodation is not appropriate or adequate may file a grievance to his or her collective agreement. Non-unionized employees may access the Terms and Conditions of Employment Section 13.1. In addition, or instead, employees may elect to file a complaint with the Ontario Human Rights Commission.