

York University Department of Human Resources and Employee Relations Academic Accommodation Process

Preamble

York University is committed to assisting employees who require accommodation to remain at work or to return to work after recovering from an illness or injury. The University applies the principles established in the Ontario Human Rights Code, the Workplace Safety and Insurance Act (WSIA) and the Occupational Health and Safety Act (OHSA) in its accommodation practices. Two University policies address academic accommodation: Employment Equity Policy and Accommodation in Employment for Persons with Disabilities Policy, which can be viewed at www.yorku.ca/secretariat/legislation/u_pol.

York University is committed to accommodating employees in a manner that respects their dignity, allows them to perform their work and to fully participate in employment at the University.

What is Accommodation?

Academic accommodation is defined as services, adaptations or adjustments that enable persons who require accommodation to compete for jobs and perform employment activities. It is an ongoing process of identifying and removing or minimizing the adverse effects of barriers in the work environment or in the method of doing work, which prevent otherwise qualified persons covered by the Ontario Human Rights Code from achieving expected outcomes of a job. The process is consultative involving employer and employee and union representative and results in specific adaptations and/or modifications in employment policies and/or practices.

To accommodate persons with disabilities, it is important to understand what conditions are defined as a disability. This process relies on the description of disability that is provided in the Ontario Human Rights Code:

"Because of disability" means for the reason that a person has or has had, or is believed to have or have had:

- 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 any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or physical reliance on a guide dog or on a wheel chair or other remedial appliance or device;
- A condition of mental impairment or disorder;
- A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language, or

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

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

Accommodation includes but is not limited to:

- Temporary or permanent measure(s) that remove(s) a barrier which prevents an otherwise qualified individual from performing or fulfilling the essential duties of a job;
- Accommodation in functions such as recruitment, selection, training, promotion, performance appraisal, and any other condition of employment where the need for accommodation may be identified;
- Recognition of individual circumstances;
- Communications in alternative media formats;
- Technical aids such as software or hardware;
- Job redesign which is defined as restructuring the job by re-allocating or redistributing non-core job functions;
- Human supports such as sign language interpreters, job coaches to help in the initial training and integration of persons with psychiatric or developmental disabilities;
- Workstation or building modification such as ramps for access to buildings.

Who is eligible for accommodation?

Any University employee who has a substantiated disability under the terms of the Ontario Human Rights Code is eligible to request accommodation. Employees requesting accommodation will be involved in the development of accommodation measures to address their needs. Employees have a responsibility to communicate any known accommodation needs and to cooperate in the accommodation process.

Who is responsible for accommodation?

The University has a legal obligation to meet the needs of an employee requesting accommodation unless doing so causes the University undue hardship.

The process of accommodating an individual is a shared obligation of the University, the employee, and the association or union representing the employee, where applicable. The University Administrator responsible for the work performed by the employee is generally the first contact for an employee requesting accommodation. Together, the employee and the University Administrator, in consultation with the Employee Well-Being Office (EWO), identify the most appropriate method of accommodation, which meets the needs of the employee. Such appropriate accommodation shall respect the principle of confidentiality.

The interests of all parties in the process will be taken into account and all parties will be treated fairly and respectfully.

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

Accommodation Process

Scope

The Academic Accommodation Process is available to all employees of York University.

Roles and Responsibilities

Although it is expected that the employee will take primary responsibility for initiating the request for accommodation, there may be some cases where the request for accommodation will be initiated by the EWO, a member of the University administration, the Human Resources (HR) Department, the Workplace Safety and Insurance Board (WSIB), or another source. If the accommodation process is initiated by a party other than the employee the employee will be promptly notified of the process and actively involved. Regardless of who initiates the request there are several key players in the process of accommodating individuals and their roles are described below.

Person Requiring Accommodation

When an employee needs accommodation, the employee is to notify his/her manager about the need for job accommodation and the manager will facilitate contact between the employee and the EWO. The employee, the manager and the EWO are the core members of the accommodation planning team. Where requested by the employee, the union or association shall also be a member of the accommodation planning team.

For full-time faculty, all accommodation requests should be directed to the Dean/Principal/University Librarian as the appropriate manager. In cases where the accommodation request is for a workplace modification, such as the provision of specific equipment or furniture, or other supports to assist in the carrying out of the faculty member's responsibilities, the employee's unit director or chair should also be copied on the request if the employee is a member of a faculty with schools/ departments/divisions.

The employee will identify any known employment barriers that require accommodation and participate in the accommodation process.

Employee Well-Being Office (EWO)

The EWO plays a central role in the return to work and accommodation process. The EWO is responsible for assisting employees and their managers with the preparation, implementation, monitoring and assessment of return to work plans and workplace accommodations. Depending on individual circumstances, these activities may involve the LTD insurance carriers, WSIB, employee associations, unions, Department of Occupational Health and Safety (DOHS), HR Services (employee recruitment) and Employee Relations.

Website: www.yorku.ca/hr/compensation/ewb Telephone: (416) 736-2100 ext. 44747

Employee Relations Office and the Employee Association or Union

Accommodation processes that may result in modifications or changes to the employee's job duties or responsibilities will usually involve a representative of the Employee Relations Office and a representative from the employee's association or union.

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

Department of Occupational Health and Safety (DOHS)

DOHS will work with the EWO to identify appropriate changes or modifications to work stations/work environments, recommend technological aids and provide ergonomic education. DOHS may also assess and make recommendations pertaining to indoor air quality and lighting conditions.

Website: www.yorku.ca/dohs

Telephone: (416) 736-5491

Registrarial Services

Registrarial Services can assist with needs relating to classroom location and scheduling of courses and examinations in formal examination periods.

Third Parties

In some cases, information may be requested from third parties. This is to be done in consultation with the EWO for cases such as the following:

- When the physical demands of the job are unclear, the EWO may arrange a Physical/ Psychological Demands Analysis (PDA) for that job. A PDA is a tool for understanding job requirements and is often developed with the able-bodied employee in mind. However, a person with a disability requesting an accommodation may still be able to meet these job requirements but in a different manner;
- When an employee's abilities and limitations require a detailed assessment, the EWO may arrange for a Functional Abilities Evaluation (FAE). A FAE is a detailed examination of the abilities and limitations for an employee requesting accommodation.
- Where appropriate, information may be requested to facilitate the design and implementation of the accommodation plan;
- Information may be required where the proposed accommodation could bear upon health and safety in the workplace;
- It may be appropriate to request verification of need for accommodation in certain limited circumstances, in which case the employee requesting accommodation shall be asked to provide the necessary consents to permit enquiries and release of information from third parties. For example, the employee may need a functional assessment when the abilities of the employee to perform the job are not clear. Such information will be kept in the strictest confidence and, where the information is provided to the University, it will be kept in a confidential file in the EWO separate from the employee's personnel file.
- The cost of assessments by a third party shall be the responsibility of the employer.

Recording an Accommodation Plan

An accommodation agreement will be prepared by EWO in consultation with the employee, the manager, and other parties as required to ensure accuracy, outlining the nature of the accommodation (see Appendix A). The written agreement will specify the details of the accommodation, who is responsible, who will be involved (including co-workers, if applicable), the time lines for putting the accommodation in place, its duration, and any

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

applicable follow-up evaluations. This agreement will be reviewed periodically at the request of any of the parties.

Accommodation Resolved Within the Work Unit

Accommodation can be effected within the work unit with little disruption when the abilities of the employee to perform the job are known, the nature of the job accommodation is uncomplicated, and minor adjustments can be made to modify the physical workplace and/or employee's or co-workers' work plans or schedules.

The onus is on the University manager to attempt to accommodate the employee within the work unit in the least disruptive manner possible and in a way which respects the dignity of the individual.

When an Employee Cannot Be Accommodated In Performing Essential Duties

In rare cases, it will not be possible to accommodate an individual's needs because it is simply not possible to design an appropriate accommodation based on the essential duties and responsibilities of the job or because the accommodation would cause undue hardship for the University. In circumstances where accommodation is not possible, the EWO will attempt to place the employee in another available position for which he or she is qualified or can be trained and/or in which he or she can be accommodated. In doing so, the EWO will work with the employee, University managers, Recruitment Services, Employee Relations and the appropriate association(s)/union(s).

The EWO will work with the employee to identify appropriate, available positions and will prepare an accommodation plan for any position where accommodation is required and possible. Use of partial disability benefits will also be explored. Such an employee will be granted the same priority as any employee made redundant by restructuring or budget cuts. However, preference will be given to the individual needing accommodation in any situation where that person and a redundant employee are considered equally qualified.

The deciding factor regarding suitability of placement in an alternate position shall be whether the employee can perform the essential duties of the job. Placement in an alternate position may result in a change of pay.

The University will make all reasonable efforts to place an employee in an alternative position for which he or she is qualified within a period of three months from the date the employee's file is referred to EWO for alternative placement.

Effects of the Accommodation Plan

Job Redesign

If the accommodation for an employee involves a reduction of hours or a significant re-allocation of work duties, the position will be reevaluated as soon as possible to determine whether there should be a change in pay.

The Accommodation Plan may involve long term job redesign for co-workers. Co-workers must be consulted regarding changes in their jobs. Accommodation is a requirement of the Human Rights Code, and tribunal rulings have indicated that third party preference cannot prevent the provision of accommodation. No co-worker will be disadvantaged, however, in terms of job duties or pay because of the accommodation.

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

Costs

For extraordinary costs beyond normal budgetary expectations, Faculties and departments can apply for assistance from the York University Accommodation Fund.

Effect on Union Agreement

In the event that the only feasible accommodation conflicts with a collective agreement, the parties to the agreement will work to achieve a resolution.

A term of a collective agreement cannot act as a barrier to providing the kinds of accommodation an employee might require. It is the joint responsibility of the employer and the union to work out a solution with respect to any accommodation involving a conflict with an existing agreement.

In the event that the parties are unable to achieve an agreed upon solution, the employer may be required to make the accommodation in spite of the collective agreement.

It is understood that nothing in the Academic Accommodation Process precludes the negotiation of accommodation improvements in a collective agreement.

Further, nothing in this Process shall prevent any union from exercising its negotiated appeal processes on behalf of its members in the event that the union claims that reasonable accommodation has not been provided or is not being adhered to properly.

Accommodation for Full-Time Faculty

Members of the faculty have three broad areas of professional responsibility: teaching, research and service. The accommodation process for a member of the faculty must involve, as its endpoint, a combination of these areas of responsibility. While long-term accommodations will normally involve all three areas of professional responsibility, such accommodations must involve teaching responsibilities, including the teaching of multiple-student courses.

Accommodation plans for probationary faculty members will address the issues of the timing and expectations of the academic assessments that are required for the granting of tenure and promotion. The plan must ensure that all such assessments will be equitable; for example, if the plan involves a workload reduction then any assessment must take this fact into account. The accommodation planning team may consult with offices across the University as required/deemed helpful in addressing the tenure and promotion process.

Academic Accommodation Planning Checklist

The following are key components of the academic accommodation process for individuals. They are intended to help ensure timely and effective outcomes. The components should be interpreted with flexibility and modified according to the specific needs of each employee:

Identify needs

Identify members of accommodation planning team

Identify and analyze barriers to performance or participation

Define accommodation objectives

Develop and sign off on accommodation agreement

Implement accommodation

Provide accommodation training as required

Review and evaluate accommodation according to schedule set out in accommodation agreement

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

Appendix A

Return to Work Outline

Name: ***** **Phone Number:** *****
Job Title: *****

Employer: York University **Phone Number:** extension 44747
Dept/Unit: Employee Well-Being Office

Date Outline Issued to the Faculty: *****

Date of Plan: *****

Return to work restrictions: *****

Return to Work Goal: *****

Return to Work Schedule: (1) Meet with Chair, Dean and/or EO and Executive Director, Employee Relations or designate to discuss the following:

Schedule and confirm Meeting for and throughout the Month of:	Scheduled time to meet	Use this column to describe the effectiveness of the essential duties carried out during the months scheduled
<Insert month>		
<Insert month>		
Schedule and confirm Meeting for and throughout the Month of:	Scheduled time to meet	Use this column to describe the effectiveness of the essential duties carried out during the months scheduled
<Insert month>		

**York University Department of Human Resources and Employee Relations
Academic Accommodation Process**

<Insert month>		
----------------	--	--

Review Schedule:

- Ongoing communication with Dean or designate and/or EO and Office of Employee Relations/Employee Well-Being Office

Parameters of the Return to Work Program:

The Employee is responsible for:

- Sharing information with the Dean or designate on how they are managing his/her illness
- Sharing information with the Dean or designate on the effectiveness of the accommodation plan

The Dean or designate and Office of Employee Relations are responsible for:

- Monitoring concerns related to Return-to-Work and discussing such concerns with the Employee
- Reviewing the Accommodation Schedule as necessary with the Employee

The HR Employee Well-Being Office is responsible for:

- Ensuring the accommodation meets the employee's needs based on applicable medical/functional abilities documentation and communicating with the employee and appropriate manager(s).
- Obtaining additional medical/functional abilities documentation as necessary.

Signature – Employee

Date

Signature – Dean or Designate

Date

cc: Employee Well-Being Office
Employee Relations

