



TITLE

WORKPLACE ACCOMMODATION

SCOPE

Provincial

DOCUMENT #

1156

APPROVAL AUTHORITY

Executive Leadership Team

INITIAL EFFECTIVE DATE

July 18, 2014

SPONSOR

People, Legal and Privacy

REVISION EFFECTIVE DATE

September 1, 2018

PARENT DOCUMENT TITLE, TYPE AND NUMBER

Not applicable

SCHEDULED REVIEW DATE

September 1, 2021

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To set out Alberta Health Services' (AHS) expectations for the workplace **accommodation** of employees in accordance with the *Alberta Human Rights Act*.

PRINCIPLES

AHS values the contributions of a diverse workforce and individual ability, and recognizes the prohibition in the *Alberta Human Rights Act* against discrimination on the basis of the **protected grounds**. Our **duty to accommodate** arises where an employee demonstrates they have a protected ground and they have or will suffer adverse consequences as a result of the protected ground. AHS recognizes its legal duty to accommodate to the point of **undue hardship**. This Policy applies to all temporary and permanent accommodations.

The duty to accommodate is a legal obligation that flows from human rights legislation and jurisprudence developed to further the equality rights commitment to an equitable workplace. Accommodation is about designing the workplace to be inclusive, and to facilitate the participation of employees and prospective employees in the workplace. The duty to accommodate is a process involving AHS, the employee and, where applicable, the union or other designated representative.

Each situation is assessed on a case by case basis. Once it has been established that an employee requires an accommodation, AHS shall make reasonable efforts to accommodate the employee to the point of undue hardship.

APPLICABILITY

Compliance with this policy is required by all AHS employees. Applicable collective agreements, the *Non-Union Exempt Employee Terms and Conditions of Employment*, or written employment contracts take precedence in the case of a conflict with this Policy. This Policy is subject to all applicable laws, including the *Workers' Compensation Act* (Alberta).

ELEMENTS

1. Points of Emphasis

- 1.1 In order for AHS to meet its duty to accommodate, including the timelines for accommodation specified in the *Workers' Compensation Act* (Alberta), **managers**, Human Resources Business Partnerships (HRBP) Advisors and, where applicable, Ability Advisors or Occupational Injury Advisors, work cooperatively to facilitate an employee's return to work or other workplace accommodation to the point of undue hardship.
- 1.2 The Workers' Compensation Board of Alberta (WCB) requires that an employer accommodate an injured or ill employee declared fit for return to work within specified time frames. Failure to do so may result in the WCB issuing an administrative penalty against AHS. If the time frame to accommodate an employee is not feasible in the circumstances, the Occupational Injury Advisor must seek approval from the WCB for a different time frame.
- 1.3 Managers are responsible and accountable for accommodating an employee's restrictions and abilities in a position for which the employee is qualified, and to support or direct any reasonable modification of the workplace, including the use of adaptive equipment, reasonable orientation, and modification to work schedule.
- 1.4 All managers shall make reasonable efforts to accommodate an employee to the point of undue hardship. Managers are accountable for providing a reasonable explanation for reaching a decision of **unable to accommodate**, aligned with undue hardship.
- 1.5 Managers shall work with the employee, the employee's union or other representative (if applicable), the HRBP Advisor and, where applicable, the Ability Advisors or Occupational Injury Advisors to explore reasonable accommodation options.
- 1.6 A manager's decision of unable to accommodate shall be reviewed by their next level of leadership, up to the applicable Senior Operating Officer (SOO), or equivalent, to ensure all reasonable attempts for accommodation have been exhausted.
- 1.7 Managers, HRBP Advisors, Ability Advisors, and Occupational Injury Advisors are responsible for documenting the accommodation process including making notes of all meetings, positions considered, offered, accepted, or rejected,

retaining records, and reporting accommodation outcomes to ensure compliance with this Policy.

- 1.8 Accommodation outside of the employee's bargaining unit or terms and conditions of employment shall be considered by the employer when there are no reasonable accommodation options available within the bargaining unit or terms and conditions of employment.
- 1.9 All reasonable accommodations shall be considered on a case-by-case basis. All steps in the accommodation process are to be taken within a reasonable timeframe and must meet requirements of applicable laws and collective agreements.

2. Employee's Responsibilities

- 2.1 Employees shall participate fully in the accommodation process and cooperate in any reasonable accommodation opportunity or other requirement during the accommodation process.
- 2.2 When an employee makes a request for an accommodation related to a **mental disability** or a **physical disability**, the employee must complete the *Employee Request for Accommodation Form* (#19566) which needs to be supported by satisfactory medical documentation to substantiate the need for accommodation. The Form shall be submitted to the assigned Ability Advisor or Occupational Injury Advisor, as applicable.
- 2.3 When an employee makes a request for accommodation for reasons other than a mental or a physical disability, they must complete the *Employee Request for Accommodation Form* (#19566) which needs to be supported by sufficient information to substantiate the need for accommodation and submit the request to their manager.
- 2.4 Where applicable, employees may seek or request union representation during the accommodation process. When required to do so by law or agreement, AHS shall involve the union in the accommodation process. The unions cannot impede the effort of AHS to implement a reasonable solution that accommodates the needs of the employee.
- 2.5 Employees and/or an employee's union may also assist in the accommodation process by taking an active role in identifying vacant positions that meet the employee's restrictions/abilities.
- 2.6 AHS' duty to accommodate can be satisfied by the offer of a reasonable accommodation, even if it is not the employee's preferred option, or if the employee fails to cooperate in the process. The employment relationship may be terminated if an employee refuses a reasonable accommodation or refuses to cooperate in the process.

- 2.7 Employees shall comply with notice requirements for return to work set out under any applicable collective agreement, *Non-Union Exempt Employee Terms and Conditions of Employment*, employment contract, or Workers' Compensation Board requirements.

DEFINITIONS

Accommodation means making changes to certain rules, standards, policies, and physical environments when they have a negative effect on a person because of the person's mental or physical disability, religion, gender, or any other protected ground (Alberta Human Rights Commission, 2018). This may include, but is not limited to, changes to duties, job modifications, alternate positions or FTE, necessary to allow an employee to participate meaningfully in the workplace either temporarily or on a permanent basis.

Duty to accommodate means the legal duty of the employer to remove discriminatory barriers related to prohibited grounds up to the point of undue hardship.

Manager means the individual(s) who has the delegated human resource authority for directly planning, monitoring, and supervising direct (employee) reports.

Mental disability means any mental disorder, developmental disorder, or learning disorder regardless of the cause or duration of the disorder.

Physical disability means any degree of physical disability, deformity, malformation, or disfigurement that is caused by injury, birth defect, or illness, including, but not limited to, epilepsy, paralysis, amputation, lack of physical coordination, visual, hearing and speech impediments, and physical reliance on a guide dog, wheelchair, or other remedial appliance or device.

Protected Grounds means the grounds of discrimination which are covered under the *Alberta Human Rights Act* and include race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.

Unable to accommodate means an occurrence in which a specific work unit or department within AHS is justifiably unable to find a reasonable accommodation.

Undue hardship means an occurrence in which AHS is unable to accommodate as it would create onerous conditions for AHS, as an organization. Undue hardship is determined by reviewing financial costs, size and resources of AHS, disruption of operations, and substantial interference with the rights of other individuals or groups, interchangeability of workforce and facilities, and health and safety concerns.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Delegation of Approval Authority Policy* (#1168)
 - *Delegation of Human Resources Authority Matrix*
 - *Records Management Policy* (#1133)
 - *Records Retention Schedule* (#1133-01)
- Alberta Health Services Forms:
 - *Unable to Accommodate* (#19565)
 - *Employee Request for Accommodation* (#19566)
 - *Confirmation of Accommodation* (#19632)
- Alberta Health Services Resources:
 - *Workplace Accommodation Process Guide*
 - *Non-Union Exempt Employees Terms and Conditions of Employment*
- Non-Alberta Health Services Documents:
 - *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5
 - *Workers' Compensation Act*, R.S.A. 2000, c. W-15

VERSION HISTORY

Date	Action Taken
October 5, 2015	Non-substantive change
September 1, 2018	Revised