TITLE
WORKPLACE ACCOMMODATION

SCOPE
Provincial

APPROVAL LEVEL
Alberta Health Services Executive Committee

SPONSOR
Human Resources

CATEGORY
Employee and Associate Relationships

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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PURPOSE

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

POLICY STATEMENT

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. AHS recognizes its legal duty to accommodate employee access to and participation in the workplace to the point of undue hardship.

The duty to accommodate is a creation of human right 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. For in-scope employees, the duty to accommodate is a tripartite process involving AHS, the employee, and the union. For out-of-scope employees, the duty to accommodate is a bipartite process between AHS and the employee.

Each situation is assessed on a case by case basis. Once an employee has established that he/she is within a protected group that requires accommodation, the burden shifts to AHS, as the employer, to prove that every reasonable effort was made to accommodate the employee.

APPLICABILITY

Compliance with this policy is required by all AHS employees. Applicable collective agreements, Senior Leadership, Management and Out of Scope Terms and Conditions of Employment
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("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.

POLICY ELEMENTS

1. Responsibilities for Accommodating Employees

   1.1 Employees requiring accommodation will be accommodated whenever possible within their department. In order for AHS to meet its obligation in this regard, managers, Ability Advisors, and HR Business Partnerships ("HRBP") Advisors work cooperatively to facilitate an employee’s return to work or other workplace accommodation to the point of undue hardship.

   1.2 Managers are responsible and accountable for accommodating an employee in a suitable position for which he/she is qualified and to support or direct any reasonable modification of the workplace, including the use of adaptive equipment, reasonable orientation, and/or scheduling of additional staff as necessary. The search for a reasonable accommodation may be expanded to include other areas of the organizational structure when a reasonable accommodation cannot be found within the employee’s home department.

   1.3 Managers will accept an employee’s placement in a vacant position if it is a reasonable accommodation and it is not an undue hardship to the unit.

   1.4 Managers will work with the employee, the employee’s union representative (if applicable), Ability Advisor, and HRBP Advisor, as necessary to explore reasonable accommodation options.

   1.5 When unable to accommodate an employee in his/her own position, or to return an employee to his/her department, managers will complete the Unable to Accommodate form (#19565) and submit the form to the manager to whom they report, the applicable Ability Advisor, and HRBP Advisor. If the higher-level manager accepts that the employee is unable to be accommodated for the reasons set out, the higher-level manager assumes responsibility, with assistance from Ability Advisors and HRBP Advisors, for accommodating the employee (short of undue hardship) within the larger department. The process of escalation continues without undue delay until all reasonable accommodation options are exhausted, to the point of undue hardship.

   1.6 The case of an employee who cannot be accommodated may be reviewed by the applicable Senior Operating Officer ("SOO") or equivalent (in accordance with Delegation of Human Resources Authority (#1119) policy) to ensure all reasonable attempts for accommodation have been exhausted. If a reasonable accommodation is found outside of the employee’s home department and/or geographic zone, the SOO or equivalent of the new department or geographic zone is accountable in all respects for that employee.

   1.7 Managers, Ability Advisors, and HRBP Advisors are responsible for retaining records documenting the process, notes of the meetings, options considered,
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offered, accepted or rejected, and report accommodation outcomes to ensure compliance with this policy and for tracking data to support organizational goals and process improvements (Records Retention Schedule (#1133-01) procedure).

2. Employee’s Responsibilities

2.1 When an employee makes a request for an accommodation not related to a mental disability or a physical disability, AHS will provide appropriate and sufficient information to the employee’s department manager to support the need for the accommodation. When an employee makes a request for an accommodation related to a mental disability or a physical disability, the employee’s need for accommodation must be supported by satisfactory medical substantiation that is provided to the Ability Advisor.

2.2 Employees will participate fully in the accommodation process and will:

a) complete the Employee Request for Accommodation form (#19566)
b) maintain contact with their supervisor, Ability Advisor, and HRBP Advisor;
c) attend medical appointments, functional assessments, and/or other appointments as determined in the agreed-upon return to work plan; and
d) cooperate and participate in any reasonable accommodation opportunity or other requirement in the accommodation process.

Employees may be represented by a union representative during the accommodation process.

2.3 Employees and/or an employee’s union representative (where applicable) may also assist in the accommodation process by taking an active role in identifying vacant positions that meet the employee’s restrictions/abilities.

2.4 Employees will comply with notice requirements for return to work set out under any applicable collective agreement or terms and conditions of employment.

3. Conditions and Requirements

3.1 All reasonable accommodations will be considered on a case by case basis, and will be for the purpose of removing barriers to an employee’s continued participation in the workplace. All steps in the accommodation process are to be taken without undue delay.

3.2 Accommodations based on a protected ground under the Alberta Human Rights Act are to the point of undue hardship.

3.3 Subject to the employee’s restrictions/abilities, vacant available positions, and bona fide operational requirements, the search for a suitable accommodation placement of an employee shall be conducted, beginning with the same
classification, Full Time Equivalent ("FTE"), department, and if applicable, bargaining unit, and then expanding to the same or lower FTE, same or lower job classification, and same site department/zone, or other geographic area agreed to between the parties. In certain situations, where all other options have been examined and/or explored, a promotion may also be considered for the purpose of securing a suitable accommodation.

3.4 Employees must be qualified to perform the bona fide occupational requirements of the position to be considered for accommodation. All accommodations must be consistent with an employee’s documented restrictions and abilities.

3.5 For in-scope employees, when an accommodation requires waiving or amending the application of a term of an applicable collective agreement, HRBP and the applicable union representative will discuss and may agree to such waiver or amended application, to the point of undue hardship. For out-of-scope employees, waiving of a posting is not required and the employees can be placed into a position which meets their restrictions.

3.6 Accommodation outside of the employee’s bargaining unit or terms and conditions of employment will be considered by the employer when there are no reasonable accommodation options available within the bargaining unit or terms and conditions of employment. Accommodation of an employee to another bargaining unit or terms and conditions of employment may require the consent of the receiving bargaining agent or manager, to the point of undue hardship.

3.7 AHS’ duty to accommodate is satisfied by the offer of a reasonable accommodation, even if it is not the employee’s preferred option. The employment relationship may be terminated if an employee refuses a reasonable accommodation.

DEFINITIONS

Accommodation means making changes to certain rules, standards, policies, workplace cultures and physical environments to ensure that they don’t 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, 2013). 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.

Duty to accommodate means removing discriminatory barriers related to prohibited grounds up to the point of undue hardship.

In-scope employee means an employee who is a member of one of the four bargaining units, represented by a bargaining agent, whose terms and conditions of employment are governed by a collective agreement.

Mental disability means any mental disorder, developmental disorder, or learning disorder regardless of the cause or duration of the disorder.
Out-of-scope employee means an AHS employee who is exempt from collective bargaining and whose terms and conditions of employment are governed by the Senior Leadership, Management and Out of Scope Terms and Conditions of Employment.

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.

Unable to accommodate means an occurrence in which a specific work unit or department within AHS is justifiably unable to accommodate an employee because it would cause the unit undue hardship.

Undue hardship means an occurrence in which AHS is unable to accommodate as it would create onerous conditions for AHS. Undue hardship is determined by reviewing financial costs, size and resources of AHS (ability to absorb the cost of modifying equipment and/or offer a range of accommodation options), disruption of operations, and substantial interference with the rights of other individuals or groups, interchangeability of work force and facilities, and health and safety concerns.

REFERENCES

- Alberta Health Services Governance Documents:
  - Delegation of Human Resources Authority (#1119)
  - Records Management policy (#1133)
  - Records Retention Schedule (#1133-01)
- Alberta Health Services Forms:
  - Confirmation of Accommodation (#19632)
  - Employee Request for Accommodation (#19566)
  - Unable to Accommodate (#19565)
- Alberta Health Services Resources:
  - Senior Leadership, Management and Out of Scope Terms and Conditions of Employment
  - Workplace Accommodation Process Guide
- Non-Alberta Health Services Documents:
  - Alberta Human Rights Act

VERSION HISTORY

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<tr>
<th>Date</th>
<th>Action Taken</th>
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<tbody>
<tr>
<td>July 18, 2014</td>
<td>Initial Approval/Effective</td>
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<tr>
<td>October 5, 2015</td>
<td>Housekeeping Change</td>
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<tr>
<td>July 18, 2017</td>
<td>Scheduled for Review</td>
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