

<b>TOPIC:</b> Human Resources	<b>SUBJECT:</b> Duty to Accommodate	<b>Code:</b> HR038
		<b>Date of Issue:</b> August 2004
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**DEFINITION:** Equality right – condition of disability, religious observance obligation, family status.

**PURPOSE:** The purpose of this policy is to encourage and facilitate effective and successful responses to accommodation issues that arise in our workplace.

Our ability to identify, properly assess, and successfully implement appropriate accommodation activity is dependent upon the support and input of all relevant constituencies in the workplace community. The following will outline the roles and responsibilities of such constituencies.

**I. OUR COMMITMENT**

Avenue II is committed to promoting and ensuring equality rights compliance in the workplace. Avenue II is committed to ensuring that accommodation needs are promptly identified by individuals seeking accommodation and properly assessed with a view to successfully responding to the accommodation needs that arise in this workplace.

Responding successfully to accommodation issues in the workplace is a multi-party process. All members of the workplace community have roles and responsibilities in connection with the successful management of accommodation issues. All parties (*managers, supervisors, employees, persons seeking accommodation, union*) are required to provide their full cooperation to the processes directed at identifying and responding to accommodation needs. All parties are required to provide their support to facilitate reasonable accommodation initiatives.

**II. THE DUTY TO ACCOMMODATE**

Human rights laws create a legal duty to accommodate the needs of employees who experience a conflict between their employment obligations and needs attending an equality right. The legal obligation is to resolve the conflict for the employee through reasonable accommodation to enable the employee or prospective employee to participate or continue to participate in the activity of work and/or in an employment relationship. Employees must be able to perform the essential duties of the position.

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### **III. DEFINING THE DUTY: GENERAL**

The duty to accommodate incorporates an obligation to adapt/adjust the workplace to meet the needs of employees that attend equality rights statuses.

The adjustments to the workplace can include the following:

- (1) *Physical workplace: Redefine the workplace, modification to equipment, provision of special equipment, tools, etc.*
- (2) *Scope of work: It can require the removal of duties, reassignment of duties, providing assistance or changing duties.*
- (3) *Hours of work: Accommodation may require modification to the days of work, hours per day, shift times or shift schedule of an employee.*
- (4) *Job expectations or requirements: Accommodation can require the relaxing of timekeeping and attendance expectations where needs attending an equality right conflict with such expectations.*

### **IV. RESPONSIBILITIES**

#### **1. Accommodee**

##### ***(i) A Clear and Prompt Communication Of The Need***

Employees with an accommodation need are expected to promptly advise management or human resources of any conflict attending a need related to an equality right that conflicts with his/her ability to provide regular attendance, perform regular duties, or meet any other term and condition of the employment contract. Employees are to complete the appropriate form which can be obtained from the Human Resources Officer or Manager.

##### ***(ii) To Provide Timely, Complete and Meaningful Information***

Whenever a potential accommodation issue has been identified, the employee seeking accommodation is responsible for delivering in a timely manner all information relevant to the employer's assessment of the accommodation issue. Employees seeking accommodation are expected to promptly respond to all employer requests for information that the employer identifies as relevant to assessing or pursuing accommodation initiatives.

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***(iii) To Provide Full Cooperation to Facilitate Any Reasonable Accommodation Initiative***

Employees seeking accommodation are expected to conduct themselves reasonably and provide their cooperation and support to facilitate the success of accommodation activity. A failure by a person seeking accommodation to discharge their responsibilities as outlined above, may limit or end the employer's ability and obligations to successfully address the employee's accommodation needs.

**2. Management's Responsibilities**

***(i) Secure Relevant Information***

Management or human resources shall initiate the necessary steps to secure information, input, or documentation relevant to assessing the accommodation need.

***(ii) Assessment***

Management shall use the information secured relevant to the accommodation need to evaluate accommodation options with a view to identifying the most appropriate accommodation initiative.

***(iii) Consultation***

Management shall consult with relevant parties, including but not limited to the individual seeking accommodation.

***(iv) Implementation***

Management shall finalize and implement an appropriate accommodation initiative within a reasonable amount of time. It is recognized that accommodation must be planned for and immediate accommodation may not be available.

***(v) Monitoring***

Management shall monitor the accommodation initiative. The monitoring may include requests for updated information from employees and/or attending medical advisors. The monitoring and updating of information will facilitate the employer in responding to changing accommodation needs and/or identify when the accommodation need is exhausted.

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#### **V. WORKPLACE COMMUNITY RESPONSIBILITIES – Fellow Employees**

Successful accommodation requires the support and commitment of everyone in the workplace community. All employees are expected to provide their assistance and support where required.

1. All members of the workplace community have an obligation to support the right to accommodation.
2. Other employees may be required to assume some additional responsibilities or burdens in connection with accommodation activity.
3. As per Human Rights Legislation and Law, accommodation may override a Collective Agreement.

#### **VI. RESPONSIBILITIES OF ATTENDING PHYSICIANS**

The verification of accommodation issues and identification of appropriate accommodation initiatives is dependent upon relevant and timely input from attending medical practitioners. The attending physicians of an employee who is faced with an accommodation issue in the workplace shall provide their full cooperation and support by:

1. Responding in a complete and timely manner to any request for information initiated by the Employer.
2. Communicating to the Employer in a timely manner any changes in the Employee's condition that may alter the required scope, duration, or nature of an accommodation initiative.
3. The lack of cooperation by a physician or the lack of a physician shall be taken into consideration: