



# Workplace Accommodation Policy

## Policy Requirements

## Details

Applicable Legislation:	<u>Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11</u> <u>O. Reg. 191/11: Integrated Accessibility Standards</u> <u>Human Rights Code, R.S.O. 1990, c. H.19</u>
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## CONTENTS

- 1.0 PURPOSE ..... 2
- 2.0 SCOPE ..... 2
- 3.0 DEFINITIONS ..... 3
- 4.0 POLICY ..... 4
- 5.0 WORKPLACE ACCOMMODATION PROCESS ..... 5
- 6.0 ROLES AND RESPONSIBILITIES ..... 8
- 7.0 CONFIDENTIALITY ..... 11
- 8.0 NON-COMPLIANCE IMPLICATIONS ..... 11
- 9.0 SUPPORTING DOCUMENTATION ..... 12
- 10.0 RELATED POLICIES ..... 12
- 11.0 APPENDICES ..... 12

## 1.0 PURPOSE

George Brown College values and respects all individuals and is committed to providing an equitable workplace that supports accessibility, diversity and the equitable treatment of all current and prospective employees.

The purpose of this document is to provide:

- A clear statement regarding the obligations and responsibilities required for a successful workplace accommodation policy at George Brown College;
- Standards for the consistent application of this policy and related processes across the college; and
- Guidance for employees, college departments, management, union representatives, and any other parties involved in the workplace accommodation process regarding their respective roles and obligations.

In accordance with this policy, the college is committed to:

- Ensuring that each person with a disability will be considered individually, on a case-by-case basis, in order to determine workplace accommodation requirements;
- Achieving a culture and work environment that is supportive of employees with disabilities and promotes dignity, independence, integration, and equal opportunity;
- Ensuring compliance with all applicable legislation, collective agreement provisions and College policy;
- Establishing an efficient accommodation process that is consistent with principles of confidentiality and shared responsibility;
- Clarifying roles and accountabilities within the George Brown community for the workplace accommodation process.

## 2.0 SCOPE

This policy applies to any George Brown college employee with a disability who may require accommodation, and to prospective employees who may require accommodation during the selection process at the college.

In accordance with George Brown College's obligations under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, the O. Reg. 191/11: Integrated Accessibility Standards, the Ontario Human Rights Code, R.S.O. 1990, c. H.19, and the college's AODA Accessibility Policy, the college will proactively seek to reasonably accommodate employees by removing barriers that limit, restrict or prevent individuals with disabilities from participating fully and equally in the workplace.

The college's commitment extends to all employment activities: recruitment and selection, orientation, working conditions, promotion, training, performance management, career development and workforce transition.

This policy is distinct from George Brown College's Return to Work Policy which supports all employees returning to work after an injury or illness, and provides guidance to assess and support individual cases and accommodations upon their return to work.

Employees with occupational illness/injuries may be referred to George Brown College's Health and Safety Policy as required by the Workplace Safety and Insurance Act.

### 3.0 DEFINITIONS

Word/Term	Definition
<b>Accommodation</b>	Any modification to the work or the workplace, including but not limited to reduced hours, reduced productivity requirements, and/or the provision of assistive devices, that results in work becoming available that is consistent with the worker's functional abilities and that respects applicable human rights legislation. <a href="#">WSIB Responsibilities of the Parties in Work Reintegration.</a>
<b>Alternative Work</b>	Different work or work that does not necessarily involve similar skills, responsibilities and compensation. Alternative work may be either temporary or permanent. <a href="#">Ontario Human Rights Commission.</a>
<b>Barrier</b>	A barrier is defined by the <a href="#">Accessibility for Ontarian's with Disabilities Act</a> as "anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice; ("obstacle").
<b>Bona Fide Occupational Requirements</b>	The Supreme Court of Canada has set out the following three-step test for justifying a discriminatory standard, factor, requirement or rule as a bona fide requirement: <ol style="list-style-type: none"> <li>1) was adopted for a purpose or goal that is rationally connected to performing the job</li> <li>2) was adopted in good faith, in the belief that it is necessary to fulfill a legitimate work-related purpose</li> <li>3) is reasonably necessary to accomplish the work-related purpose.</li> </ol> To show that the standard is reasonably necessary, employers must show that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer. <a href="#">Ontario Human Rights Commission.</a>
<b>Confidentiality of Information</b>	Personal information (e.g. medical information concerning an employee's restrictions or personal/family information) cannot be released (e.g. by the employee's doctor) without the written consent of the employee. In order to facilitate the accommodation process, employees must not unreasonably withhold such information. All confidential information will be kept in a secure location and will be used solely for the purpose for which it was released. The information will be housed in the Human Resources Department.
<b>Disability</b>	The <a href="#">Ontario Human Rights Commission</a> and the <a href="#">Accessibility for Ontarian's with Disabilities Act</a> define "disability" as: <ol style="list-style-type: none"> <li>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</li> </ol>

Word/Term	Definition
	<p>of paralysis, amputation, lack of physical co-ordination, 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,</p> <p>b) a condition of mental impairment or a developmental disability,</p> <p>c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,</p> <p>d) a mental disorder, or</p> <p>e) an injury or disability for which benefits were claimed or received under the insurance plan established under the <a href="#">Workplace Safety and Insurance Act, 1997</a>.</p>
<b>Duty to Accommodate</b>	<p>The obligation of an employer to take steps to eliminate the disadvantage caused by systemic, attitudinal, or physical barriers that unfairly exclude individuals or groups protected under the <a href="#">Ontario Human Rights Code</a>.</p>
<b>Functional Abilities</b>	<p>The collection of activities and tasks the Employee is capable of performing at work. Functional ability assessments are used to identify accommodation needs for employees with disabilities and for employees returning to work after an illness or injury.</p>
<b>Health Care Professional</b>	<p>A primary physician or surgeon, physiotherapist, psychologist or other member of the College of a health profession that is overseeing the Employee’s recovery, as defined in the <a href="#">Regulated Health Professions Act, 1991</a>.</p>
<b>Undue Hardship</b>	<p>The point at which an employer is not legally required to accommodate an employee’s particular needs, as the action would impose significant strain or risk to the operation of the business. The <a href="#">Ontario Human Rights Commission</a> prescribes three considerations in assessing whether an accommodation could cause undue hardship: cost, outside source of funding, and health and safety considerations. Budgetary restrictions cannot be assumed to be a barrier to accommodation, and therefore cannot be presumed to be the point of undue hardship.</p>

## 4.0 POLICY

### 4.1 General

George Brown College is committed to meeting the obligations of the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act (AODA) with respect to appropriate accommodation for persons with disabilities. As such, the College will maintain an inclusive, barrier free environment that ensures the full participation of all persons with disabilities.

This policy applies at any phase of the employment cycle which includes but is not limited to; recruitment and selection, orientation, working conditions, promotion, training, performance management, career development and workforce transition.

This policy helps identify and remove barriers that impede a person's ability to meet the requirements of any phase of the employment cycle through the:

- Identification and removal of barriers to employment, unless doing so would result in undue hardship.
- Accessible design of all workplace standards, employment systems, processes and facilities.
- Commitment that individuals are accommodated when barriers cannot be removed. Such accommodations must be made to the point of undue hardship taking into consideration issues of health, safety and cost.

### **4.2 Fundamental Principles & Requirements**

Fundamental principles underlying and requirements within the workplace accommodation policy include:

Partnerships:

- Workplace accommodation is a shared responsibility and accountability, including a partnership between the Individual Employee, the Employer, Human Resources, and as needed, the Union and other relevant parties (including Health Care Professionals, or other third party experts).

Individualization:

- The accommodation process, while consistently applied, is most successful when its solutions are individually tailored to each unique situation and to each employee they function to assist.
- Ensuring the person with a disability who is requesting an accommodation is involved in the full process and planning of the accommodation provisions.
- Respect for the dignity of the individual, ensuring that the accommodation provided meets the specific requirements of the person with the disability requesting the accommodation.

Confidentiality:

- Respect for confidentiality, including during the process of consultation such that only relevant stakeholders are involved in the development of the accommodation plan.

## **5.0 WORKPLACE ACCOMMODATION PROCESS**

The workplace accommodation process includes the following four phases, with a fifth phase if there is an issue with the accommodation request.

### **5.1 Recognize the Need for Accommodation**

The need for accommodation can be:

- Requested by the employee in writing to one of the following parties at the employee's discretion: their Supervisor / Manager, their Human Resource Consultant, or their Union representative; or

## Workplace Accommodation Policy

- Identified by the Employee's Manager or the Hiring Manager; or
- Requested by a prospective Employee to the George Brown College Employee coordinating the recruitment process.

Employees or prospective employees may request the participation of a support person if required. Employees may request the participation of their Union Representative in the process. If requested, the Union Representative is to take an active role as a partner in the accommodation process and share joint responsibility with the employer to facilitate accommodations in accordance with the *Ontario Human Rights Code (OHRC)* and the *AODA*.

Where the employee is not represented by a bargaining agent, the employee may request the participation of a representative from the workplace.

### **5.2 Duty to Inform, Gather Relevant Information and Assess Needs**

George Brown College will accept the employee's or prospective employee's request for accommodation in good faith, unless there are legitimate reasons for requiring additional information from a health care professional who can speak to the disability and disability needs as they relate to employment.

In cases where George Brown College requires additional documentation from a health care professional, the college may request this information directly from the Employee or the prospective Employee, or may request an evaluation by an outside third party expert, at the college's expense in order to assist the college in determining how the accommodation can be achieved.

The duty to inform requires the employee or prospective Employee to cooperate in answering questions or providing information regarding the relevant restrictions or limitations (as stated in the *OHRC*), including information from a Health Care Professional where appropriate and as needed. The Employee or prospective Employee is not required to disclose their disability.

Medical or other documentation relating to the employee's disability will be directed to the Benefits Office. The Benefits Office will keep all medical-related information strictly confidential and details will not be shared with the Supervisor / Manager.

Although the information disclosed will be used in assisting the process to identify workplace accommodations for the Employee or prospective Employee, the employer will not be privy to the disability.

### **5.3 Formalizing an Individual Accommodation Plan (IAP)**

The Employee and Supervisor/Manager will work together to identify the appropriate workplace accommodation, in consultation with the Human Resources Consultant, the Benefits Office Specialist, the Union Representative or the External Expert (as needed).

Once the appropriate accommodation has been identified, the accommodation details will be formally documented using the Individual Accommodation Plan (see Appendix 1).

## Workplace Accommodation Policy

In accordance with the AODA O. Reg. 191/11, s. 28 (3), individual accommodation plans must be documented and must include:

- How the College will provide workplace information in an accessible format, if requested;
- How the College will provide accessible emergency information, if needed; and
- Any other accommodation that is to be provided.

The accommodation plan is provided to the employee in a format respecting any accessibility needs, as appropriate.

### **5.4 Monitoring and Reviewing the Individual Accommodation Plan**

The Employee and Supervisor / Manager will monitor the IAP to ensure that it is current and effective with formal reviews conducted on an annual basis.

An Employee may request that an IAP be reviewed or updated if changes to the workplace accommodation(s) are required due to changes in the Employee's accessibility need due to disability.

An Employee will initiate their Individual Accommodation Plan (IAP) to be reviewed in the case that the Employee's work location or position changes.

Any updates or reviews to the IAP will be provided to the employee in a format that takes into consideration the Employee's accessibility need due to disability.

Where an Employee is dissatisfied with an identified accommodation, a review can be undertaken by the Human Resources Division. The Employee must provide a rationale in writing of the request for review and must provide any new relevant information.

In the event that the internal review processes remain unsatisfactory, the Employee maintains access to grievance/appeal processes as afforded through their collective agreement and/or the Human Rights Discrimination and Harassment Policy, as applicable.

### **5.5 Rejection of Individual Accommodation Plan**

George Brown College recognizes that workplace accommodation process is a partnership between the Employee, their Employer and where appropriate other relevant parties. However, the final decision(s) regarding accommodation will be determined by the college.

If an accommodation request is denied, the Employee will be provided with a reason for the denial in an accessible format.

**6.0 ROLES AND RESPONSIBILITIES**

Role	Responsibilities
<b>Candidate</b>	<ul style="list-style-type: none"> <li>● Prospective employees who may require accommodation during the selection process at the college.</li> <li>● Candidates for employment and those selected for interviews may inform Human Resources or the Hiring Manager of any accommodation requirement in a timely fashion so that the appropriate accommodation can be arranged.</li> <li>● Human Resources or the Hiring Manager will collaborate with candidates requiring accommodation to ensure the most appropriate accommodation is arranged.</li> </ul>
<b>Co-Workers</b>	<ul style="list-style-type: none"> <li>● Contribute to a supportive working environment.</li> </ul>
<b>Employee</b>	<ul style="list-style-type: none"> <li>● Employees are required to inform their immediate Supervisor / Manager, Human Resources Consultant or Union Representative of any accommodation requirement.</li> <li>● Collaborate with the Supervisor / Manager to identify the appropriate workplace accommodation, in consultation with the Human Resources Consultant, the Benefits Office Specialist, the Union Representative or the External Expert (as needed).</li> <li>● Employees should be willing to collaborate during the accommodation process and to cooperate with relevant activities.</li> <li>● Employees should share information regarding their disability needs when they are pertinent to identifying the most appropriate, reasonable and necessary accommodation.</li> </ul>
<b>Employee’s Health Care Professional</b>	<ul style="list-style-type: none"> <li>● General practitioners or specialists responsible for diagnosing or managing the employee’s ongoing treatment, treatment plan, and disability needs.</li> <li>● Support the Employee throughout the WA process, including consideration of and recommendations for workplace accommodation.</li> <li>● Document abilities and functional limitations information using the Assessment of Functional Capabilities form.</li> <li>● Review, and when warranted for medical reasons, provide feedback on WA Plans.</li> </ul>
<b>Employer / Hiring Committee / Hiring Manager</b>	<p>George Brown staff involved in the hiring or management of employees will:</p> <ul style="list-style-type: none"> <li>● Inform all employees and candidates of the WA policy and the procedure for obtaining accommodations.</li> <li>● Ensure all employment opportunities are advertised in an accessible format and clearly indicate how a candidate can make a request for an accommodation.</li> <li>● Ensure that the assessment method or tools used in the staffing process do not constitute barriers to candidates.</li> </ul>

Workplace Accommodation Policy

Role	Responsibilities
	<ul style="list-style-type: none"> <li>● Acknowledge a request for accommodation within 3 business days and identify an approximate response time frame regarding next steps in the accommodation process commensurate with the complexity of the case. This may be conducted by whichever party is first notified (i.e., Supervisor / Manager, Human Resources Consultant or Union Representative).</li> <li>● Provide reasonable accommodation solutions in as timely a manner as the complexity of the request permits.</li> <li>● Ensure the accommodation includes and integrates persons into employment and activities in a manner that respects their dignity, autonomy and self-esteem.</li> <li>● Ensure the individual requesting the accommodation is not in any way disadvantaged because they have sought or require a workplace accommodation.</li> <li>● Respect that individual accommodation plans are developed on an individual basis.</li> <li>● Communicate accommodation plans in a format accessible to the requesting party with a commitment to review plans, as appropriate.</li> <li>● Ensure consultation with the Benefits Office Specialist when validating medical and/or disability information.</li> <li>● Respect the right to privacy and confidentiality of all employees and candidates for employment.</li> </ul>
<b>External Expert</b>	<ul style="list-style-type: none"> <li>● Third parties with specific expertise in different disability needs will be sought to conduct assessments and determine reasonable workplace accommodations as the complexity of the case requires.</li> <li>● The process for the individual accommodation plan will include the manner in which the employer can request an evaluation by an outside medical or other expert, at the employer's expense, to assist the employer in determining if accommodation can be achieved and, if so, how accommodation can be achieved. <a href="#">O. Reg. 191/11: Integrated Accessibility Standards</a></li> </ul>
<b>Human Resources / Human Resources Consultant / Benefits Office Specialist</b>	<ul style="list-style-type: none"> <li>● Oversees the day-to-day functioning of the WA program.</li> <li>● Ensures consistency of application across the college.</li> <li>● Ensures appropriate training for staff involved in WA.</li> <li>● Ensures appropriate general communication about the WA program.</li> <li>● Maintains appropriate contact with the relevant parties throughout the WA process.</li> <li>● Assists the Employee in understanding procedures and their responsibilities regarding the WA program.</li> <li>● Acknowledges a request for accommodation within 3 business days and identify an approximate response time frame regarding next steps in the accommodation process commensurate with the</li> </ul>

Role	Responsibilities
	<p>complexity of the case. This may be conducted by whichever party is first notified (i.e., Supervisor / Manager, Human Resources Consultant or Union Representative).</p> <ul style="list-style-type: none"> <li>● Provides reasonable accommodation solutions in as timely a manner as the complexity of the request permits.</li> <li>● Participates in WA meetings and the assessment and development of WA plans.</li> <li>● Ensures the accommodation includes and integrates persons into employment and activities in a manner that respects their dignity, autonomy and self-esteem.</li> <li>● Ensures the individual requesting the accommodation is not in any way disadvantaged because they have sought or require a workplace accommodation.</li> <li>● Respects that individual accommodation plans are developed on an individual basis.</li> <li>● Communicates accommodation plans in a format accessible to the requesting party with a commitment to review plans, as appropriate.</li> <li>● Benefits Office Specialist validates medical and/or disability information.</li> <li>● Respect the right to privacy and confidentiality of all employees and candidates for employment.</li> </ul>
<p><b>Supervisor / Manager</b></p>	<ul style="list-style-type: none"> <li>● Acknowledge a request for accommodation within 3 business days and identify an approximate response time frame regarding next steps in the accommodation process commensurate with the complexity of the case. This may be conducted by whichever party is first notified (i.e., Supervisor / Manager, Human Resources Consultant or Union Representative).</li> <li>● Provide reasonable accommodation solutions in as timely a manner as the complexity of the request permits.</li> <li>● Maintain appropriate contact with the relevant parties throughout the WA process.</li> <li>● Collaborate with the Employee to identify the appropriate workplace accommodation and implement the WA plan, in consultation with the Human Resources Consultant, the Benefits Office Specialist, the Union Representative or the External Expert (as needed).</li> <li>● Participate in WA meetings and the development of WA plans.</li> </ul>
<p><b>Union Representative</b></p>	<ul style="list-style-type: none"> <li>● Acknowledge a request for accommodation within 3 business days and identify an approximate response time frame regarding next steps in the accommodation process commensurate with the complexity of the case. This may be conducted by whichever party is first notified (i.e., Supervisor / Manager, Human Resources Consultant or Union Representative).</li> </ul>

Role	Responsibilities
	<ul style="list-style-type: none"> <li>● If an employee requests their union representative as a participant in the process, the union member is to take an active role as a partner in the accommodation process and share joint responsibility with the employer to facilitate accommodations in accordance with the <i>Ontario Human Rights Code</i> and the <i>AODA</i>.</li> <li>● Duties may include:                             <ul style="list-style-type: none"> <li>○ Representing the Employee;</li> <li>○ Assisting the Employee in understanding procedures and their responsibilities regarding the WA program;</li> <li>○ Participating in WA meetings and the assessment and development of WA plans, upon request;</li> <li>○ Assisting with co-worker communications.</li> </ul> </li> </ul>

## 7.0 CONFIDENTIALITY

The College is committed to protecting the confidentiality of Employee medical and personal information and ensures that confidentiality is in compliance with national and provincial medical records and privacy laws and that it documents the process used.

All parties involved in the Workplace Accommodation process (including but not limited to: Employees, Human Resources, College Departments, Supervisors / Management and Union Representatives, Health Care Professionals) shall protect the confidentiality of employee medical and personal information.

Records of personal medical information are kept confidential and separate from Employee human resources records. Human Resources staff are responsible for the safekeeping and protection of confidential documents.

All Employees are made aware of when and how information is shared throughout the WA program, including their rights and responsibilities regarding confidentiality.

Employee health information is gathered through a process of informed written consent from the Employee with a description of the use, storage, and distribution of their information.

## 8.0 NON-COMPLIANCE IMPLICATIONS

### **Administrative Penalties for Unincorporated Organizations**

In accordance with the AODA regulation, George Brown College is subject to the following administrative penalties if deemed non-compliant by the Director of the Accessibility Directorate:

*Schedule 2: Administrative Penalties for Unincorporated Organizations*

Impact of Contravention		Major	Moderate	Minor
Contravention History	Major	\$2,000	\$1,000	\$500
	Moderate	\$1,000	\$500	\$250

Impact of Contravention		Major	Moderate	Minor
	Minor	\$500	\$250	\$200

The Accessibility Directorate of Ontario determines the dollar amount of the administrative penalty based on the following factors:

- The severity of the impact: The director determines whether, in his or her opinion, the severity of the impact of the contravention is of a minor, moderate or major nature.
- The contravention history of the unincorporated organization over the current two-reporting-cycles period.
- Schedule 2 is used for unincorporated organizations such as George Brown College.
- If the director determines that the contravention is major, and that the contravention history has been major, then the director can treat the penalty determined from Schedule 2 as a daily penalty to a maximum of \$50,000 per day for an unincorporated organization.

## 9.0 SUPPORTING DOCUMENTATION

Appendix 1: Procedures under this Policy

Appendix 2 etc: as needed

## 10.0 RELATED POLICIES

The following policies can be located at the [George Brown College Policies page](#) or on the College's Insite:

- College Code of Conduct
- George Brown College AODA Accessibility Policy
- Workplace Accommodation Policy
- Health and Safety Policy
- Human Rights Discrimination & Harassment
- Medical Certificates Policy
- WSIB Work Reintegration Operational Policy: Responsibilities of the Workplace Parties in Work Reintegration
- Return to Work Policy
- Workers Compensation Policies

## 11.0 APPENDICES

Appendix 1: Individual Accommodation Plan Form



### Individual Accommodation Plan Form

In accordance with Section 28 of the O.Reg. 191/11: Integrated Accessibility Standards under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, George Brown College has in place this written process for the development of documented individual accommodation plans for employees with disabilities (O.Reg. 191/11, s. 28 (1)).

Note: This form is to be completed by the Employee, in partnership with their Manager/Supervisor, with input as needed from: Human Resources, the Union, Health Care Professional(s), and/or Specialist(s).

#### CASE DETAILS

Employee Name:	Employee's Job Title:
Manager/Supervisor Name:	Department:
Accommodation start date:	WSIB Claim # (if applicable):

#### ACCOMMODATION DETAILS

Sources of Input (expert input, resources, and supports used in plan development):

Human Resources Manager                       Family Doctor/General Practitioner

Union Representative                               Specialists

**Identified barriers** Which job requirements and related tasks require an accommodation?

**Recommended accommodations:** What strategies, tools and/or technologies have been selected to remove barriers and facilitate the related task or activity?



Actions to implement accommodation:

Assigned to:

Date:

**FOLLOW-UP SCHEDULE**

If known, how long will the accommodations last?

Follow-up meetings will be scheduled:

As needed  Weekly  Bi-weekly  Monthly

If no end date is expected, the next review of this IAP will occur annually, unless both the Employee and Manager/Supervisor agree that review is required sooner, or agree that in the case of a permanent accommodation, a scheduled review is no longer required.

Date of next annual review (as required):

The goal of the Individual Accommodation Plan is to support the disability need by removing barriers and providing reasonable accommodations to support the employee in meeting the expectations of the job requirements.

The following parties have agreed to this plan (please sign and date):

Employee: \_\_\_\_\_

Date: \_\_\_\_\_

Manager/Supervisor: \_\_\_\_\_

Date: \_\_\_\_\_

Plan Approved (if approval required):

Human Resources: \_\_\_\_\_

Date: \_\_\_\_\_

Union Rep: \_\_\_\_\_

Date: \_\_\_\_\_