



WORKPLACE ACCOMMODATION

Inclusive excellence through enabling full workplace participation.

JUNE 2021

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In keeping with its Statement on Building an Inclusive Community with a Shared Purpose, McMaster University strives to embody the values of respect, collaboration, and diversity, and has a strong commitment to employment equity.

The purpose of this guide is to:

- Provide guidance to all members of the University community seeking or providing accommodation based on any protected ground under the Ontario Human Rights Code (the “Code”)
 - Explain the roles, responsibilities, and processes related to workplace accommodation
 - Provide insight on how to evaluate, implement, and manage workplace accommodation and other requests related to preference or workplace adjustments
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What is Workplace Accommodation?

Under the *Code*, employers and unions, housing and service providers have a legal duty to accommodate the needs of people who are adversely affected by a requirement, rule or standard.

The *Code* requires employers to put an effort, short of undue hardship, to accommodate the needs of persons who are protected by the *Code*. The *Code* sets out that it is unfair to exclude someone from the workplace or activities in the workplace because of certain core characteristics of who they are as a person.

The protected grounds in employment are:

Age, Ancestry Citizenship, Colour, Creed (religion), Disability, Ethnic Origin, Family Status, Gender Identity/Expression, Marital Status (married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage, whether in a same sex or opposite sex relationship), Place of Origin, Race, Record of offences, Sex (including sexual harassment, pregnancy, and breastfeeding) and Sexual Orientation.

The principle of accommodation applies to all grounds of the *Code*, but accommodation issues in employment most often relate to the needs of:

- Persons with disabilities
- Persons with religious, spiritual, or creed-based observances
- Persons with responsibilities emerging from caregiving family and marital relationships

McMaster University has the duty to accommodate all persons that require accommodation based on a protected ground. In some instances, staff and faculty might make a request that is not based on a protected ground but as preference. These requests should also be considered to support the individual's success.

Accommodation may be temporary or on-going, with the goal of enabling individuals to compete for jobs and perform the essential duties of their job. Reasonable accommodation involves finding reasonable solutions to an accommodation request, not a perfect one. Accommodation does not require removing the essential duties of the job or changing the job such that it becomes substantially different.

At times, employees will request modifications to the work, work schedules or work location for reasons that are not included under the protected grounds. Flexibility and support for employees in delivering on the work expectations are a normal part of the work environments.



Principles of Workplace Accommodation

When considering workplace accommodations for staff, faculty, and job applicants, we must remember the following principles of accommodation:

Dignity:

Respecting the personal integrity and worth of the person who requires workplace accommodation and maintaining the confidentiality of his or her personal information

Inclusiveness:

Emphasizing barrier-free design and accessibility to all

Individualization:

Designing accommodation to meet the current, specific circumstances of each person

Partnership:

Collaborating with the person requiring the accommodation, the employment supervisor, unions where applicable, and other units within the University, where appropriate, to facilitate employment accommodation

Consultation:

Seeking advice from stakeholders, as necessary, which may include third party expertise toward the development of an accommodation plan

Timeliness:

Endeavoring to ensure that obligations under this Policy are met in a timely manner

Equity:

Ensuring fairness and equality of opportunity

Roles and Responsibilities

A) Job Applicants have the responsibility to:

- Communicate any known accommodation needs to the University by contacting the hiring supervisor when making an accommodation request.
- Participate in identifying the appropriate accommodations.

B) Staff and Faculty requesting accommodations have the responsibility to:

Communicate any known workplace accommodation needs to their employment supervisor at the earliest possible opportunity.

- Provide the University with necessary information to enable the assessment of workplace accommodation requirements.
- For disability related accommodations, diagnosis is not required to be provided to the employment supervisor.
- Participate and cooperate in the accommodation process, by assisting with the identification of reasonable accommodations.
- Co-operate with any experts whose assistance or consultation is required in the University's management of the accommodation process.
- Be open to adjusting a previously agreed upon accommodation solution in the event essential job requirements change and/or the need for accommodation changes.

C) Employment Supervisor:

The employment supervisor should generally be the first contact for the staff, faculty and/or job applicant requesting a workplace accommodation.

Employment supervisors have the responsibility to:

- Identify the essential duties of a job.
- Approach the accommodation process from a supportive point of view, with openness and flexibility.
- Receive accommodation requests in good faith from individuals making the request.
- Seek to understand the employee's limitations and restrictions.
- Respond to accommodation requests and exploring solutions with empathy, and as quickly as possible.
- Manage the accommodation process by encouraging open dialogue and co-operation with the individual, considering all options, monitoring, and evaluating solutions.
- Keep a written record of the accommodation request and action taken; and
- If unable to accommodate, consult with Human Resources to assist in reviewing and capturing reasons for any denied accommodation request.

D) Employee Associations and Unions have the responsibility to:

- Participate as partners in the accommodation process for its members and support reasonable efforts.
- Work with the employer to address existing barriers.
- Where a negotiated collective agreement has an unintended discriminatory impact, it has a joint responsibility with the University to find a reasonable accommodation.

- Support other co-workers who are affected by any accommodation plan being considered.

E) Human Resources Services:

Human Resources Services (HRS) is available for consultation, and is responsible to:

- Provide advice, guidelines, and resources to faculty, staff, and supervisors regarding policy interpretation and procedures for workplace accommodation.
- Ensure the policy is interpreted and applied to promote the University's committed action to equity, diversity, and inclusion.
- Ensure processes are in place to enhance accessibility and access to workplace accommodations.
- Assist with disability management including facilitating workplace accommodation for employees with disabilities.
- Request documentation as may be appropriate to support a request for workplace accommodation.
- Support a hiring committee or hiring supervisor to arrange reasonable and appropriate accommodation for a job applicant (e.g., translators, wheelchair accessible interview room, rescheduling of interviews due to religious needs, etc.)
- Provide guidance and advice on pre-employment testing.

Human Resources Contacts Include:

- Employee Health Service for matters related to disability
- Employee Labour / Relations for matters related to family status, creed, religion etc.
- Human Resources Strategic Business Partner/Consultant/HR Manager – is the first point of contacted related to accommodation requests (if applicable)

F) Equity and Inclusion Office (EIO):

EIO is available for consultation, and is responsible to:

- Assist with education, training, and improving accessibility.
- Provide confidential consultation regarding human rights concerns and/or complaints about workplace accommodations, including informal and formal processes for complaint resolution.

Quick Steps for Leaders:

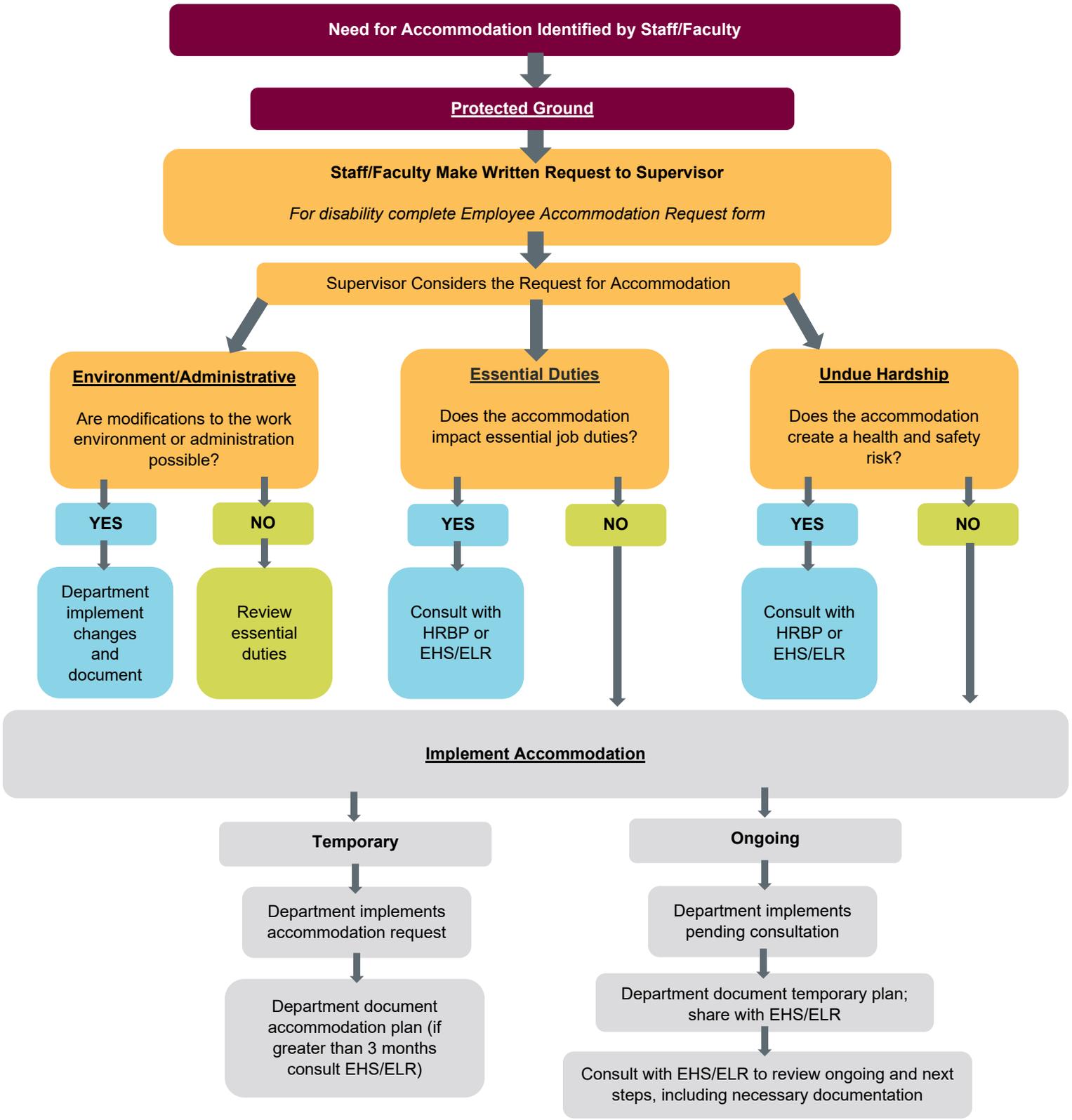
1. Receive the request for accommodation in writing
2. Speak with the individual to understand if their request is based on a ground protected under the *Human Rights Code*
3. Ask the individual about their restrictions and limitations (e.g., cannot work after 10pm on Fridays; cannot lift more than 5lbs; cannot concentrate for more than 20 minutes at a time).
4. Determine if you can adjust the workplace or work administration to meet their needs without affecting the essential job functions. If so, implement these adjustments and communicate with the individual.
5. If not, and if the request is related to a ground protected by the Human Rights Code, consult with Human Resources for guidance and advice.

Reach out to Human Resources for assistance and support as needed.



Click on the hyperlinks to move to referenced sections of document.

Navigating Workplace Accommodations for Staff/Faculty



Identify the Individual's Requirement(s)

Below are the most common grounds related to ongoing and temporary accommodation requests in the workplace. It is important to identify if the requests for accommodations being made falls under a protected ground.

When the request for accommodation is not related to a protected ground, these requests should still be considered to help individuals' success.

Disability:

Disability is broadly defined under the *Code* and encompasses:

- Physical, sensory, learning, cognitive, developmental, and mental health disabilities.
- Addiction and severe allergy disabilities.
- The result of combinations of impairments and environmental barriers, such as attitudinal barriers, inaccessible information, an inaccessible built environment, or other barriers that affect an employee's full participation at the University.
- A perceived disability

If the request is complex or affects the essential functions of the job duties further consultation with **Employee Health Services**, and/or documentation may be required.

Creed (Religious or Spiritual Observance):

Creed includes but is not necessarily limited to religious beliefs and practices. Creed may also include nonreligious belief systems that, like religion, substantially influence a person's identity, worldview, and way of life.

A creed is:

- Sincerely, freely, and deeply held;
- Integrally linked to a person's identity, self-definition, and fulfilment;
- A particular and comprehensive, overarching system of belief that governs one's conduct and practices and;
- Addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or different order of existence.
- Creed does not include moral, secular, or political beliefs.

When a person seeks accommodation for a religious or spiritual observance for which a day of observance is not provided by statute, employers are expected to make every reasonable effort to accommodate the employee.

Since such observances are usually known well in advance, the person requesting accommodation should notify their supervisor in writing as early as possible so that alternate plans can be made in the workplace.

Most accommodation requests based on creed or for religious observances can be arranged within departments. If the request is complex or effects the essential functions of the job duties further consultation with **Employee / Labour Relations**, and/or documentation maybe required.

Family Status:

The *Code* defines “family status” as:

- “Being in a parent and child relationship.” which is also expanded to encompass parent and child “types” of relationship, that may not be based on blood or adoptive ties, such as parents caring for foster, or stepchildren.
- As well as relationships based on care and responsibility, such as people caring for elder parents or relatives with disabilities.
- Spouses, partners are not protected under family status but are protected under the protected ground of “marital status”, marriage is not necessary.

The supervisor must make reasonable efforts to understand the extent of the family-status related needs when an employee is making a request for accommodation. If the request is complex or affects the essential functions of the job duties further consultation with **Employee / Labour Relations**, and/or documentation maybe required.

Other Prohibited Grounds:

Although disability, religious or spiritual observance and family status are common grounds for accommodation requests, requests for workplace accommodation under any of the prohibited grounds *Code* should be approached using the same process described herein.

Recognizing that each employee will have unique accommodation requirements below are some potential ways accommodations can be provided:

- Flexible scheduling: breaks, lunches, start times, end times, flex time
 - Flexible work arrangement: On-site or hybrid work arrangements
 - Leaves of absence
 - Exchange of duties with other employees
 - Modifications with respect to dress code
 - Food restrictions
 - Job aids and devices
 - Work processes modifications
 - Providing material in alternate forms
-

Workplace Flexibility and Employee Requests

Based on Non-Protected Ground (Preference):

In some situations, employees may make a request based on a preference (not a protected ground). Workplace flexibility is a strategy that can be used when responding to requests, changing circumstance, and expectations. Flexibility is a key component of a supportive and safe workplace. In responding to these requests, the employment supervisor should focus on workplace strategies that support success on the job. Decisions and arrangements that do not meet the criteria for a protected ground **can be arranged by the employment supervisor if operationally possible**. If the employee request is not operationally possible, it is important that the supervisor provide clear information on why. This could lead to further discussion on strategies to support the employee.

How to increase flexibility in your work environment?

There are many reasons and ways to increase flexibility in the workplace. The rationale for facilitating workplace flexibility and building in workplace strategies to support employee success is that it recognizes that we are all different and responding to these differences supports belonging and flourishing in the workplace, thereby contributing to better morale, health, and performance.

Some ideas to consider when thinking about how to make your work environment flexible:

- Choose an approach that works for you and your team, and include your team in proactive discussions about workplace flexibility and workplace strategies
- Understand your team and find out what they see as important
- Encourage breaks and support employees to adjust the workday that meets their needs
- Evaluating the need for meetings, decreasing meetings can empower employees to use the time they best see fit. Find other ways to share information outside of a scheduled meeting.
- Recognize that your team have hobbies and passions outside of their workplace and encourage employees make the time to do things they love.
- Create realistic work expectations and focus on work life balance

Workplace Strategies include, but are not limited to:

- Workstation requirements (Chairs, desks, monitor, mouse, etc.)
- Hybrid work arrangements
- Flexible work hours (e.g., ability to take irregular or unpredictable breaks)
- Changing of work environment
- Different forms of communication
- Modifications that reduce exposure to specific stimuli
- Modify productivity expectations e.g., extend deadlines
- Request for software or equipment
- Develop detailed task lists and timelines
- Consider how to provide or increase support for employees in potentially confrontational situations
- Working reduced hours

Workplace Flexibility and Employee Requests

Examples:

A faculty member indicates they would prefer not to teach in person at a certain time of the day for an undisclosed personal reason and not based on a protected ground. The Department Chair would need to evaluate the request and determine if they can support this preference, considering factors such as impact to the student experience, feasibility of course delivery method, additional technology required and available, accessibility for students, etc.

An employee indicates they would like to have the ability to work from home as needed with minimal notice because it is nice for them to have this flexibility and to avoid traffic especially in the winter months. If the department can allow this flexibility based on the nature of the work and if the work environment does not play an essential role in successful outcomes for the position this may be a preference that can be implemented.

In both scenarios, the supervisor can grant these requests as a preference not based on a protected ground if this is operationally possible. Answering the questions below will help determine the impact of accepting this request may have. It would also be important to establish a timeline for how long the request can be supported and establish a timeline for when the request should be re-evaluated.

When evaluating preference requests, you may want to consider the following questions:

1. What impact will this have on the day-to-day operations?
2. Will this impact others' ability to complete their work duties in the department?
3. Have similar requests been supported in the past for others? (If not, doesn't preclude approval)
4. How will this positively impact the employee experience?
5. What resources are needed to support this flexibility, and what communication needs to occur between the employee, supervisor, and other co-workers to enable this change?



Accommodation Considerations

When evaluating any request for accommodation (protected/need and non-protected/preference) there are specific areas to consider before implementation occurs. The following factors are not exhaustive but may be used to inform your evaluation and ability to accept an accommodation request. During the consideration process it is recommended that employment supervisors consult with Human Resources at any time if the ability to accommodate becomes complex or the need for accommodation is ongoing.

Review Essential Job Functions / Duties

Essential Job Functions/Duties are the basic job duties that an individual must be able to perform with or without reasonable accommodation.

Examples:

Can Accommodate Essential Job Duties:

An administrative assistant is unable to lift anything more than 5lbs. They are responsible for filling the paper for the photocopier, distributing mail packages, and occasionally carrying files to a filing room. With the limitation of 5lbs, the administrative assistant would not be able to complete these duties. In this case, these are not essential job duties so removing them from the assigned job duties would be possible. Since the individual is still able to manage administrative tasks such as, calendars, taking minutes, and data entry, the 5lb weight-lifting limitation does not impact the essential job duties of their role.

Cannot Accommodate Essential Job Duties:

A Professor indicates they are having symptoms of poor concentration and focus. They are seeking treatment and have been diagnosed with a medical condition that significantly impacts concentration and focus. The Professor indicates they would not be able to teach or complete research for the next 4-6 weeks as they wait to see if the medication they started will help with the symptoms. In this case, as teaching and research are essential job functions of the role of a Professor, accommodation is not possible, and the Professor will be encouraged to take a medical leave.

See Appendix A for: Examples of Accommodation Requests within the Context of a Global Pandemic

Some points to consider when identifying essential job function:

1. Does the position specifically exist to perform this function?
 2. Would the job be fundamentally altered if you were to remove the function in question?
 3. What would happen if the function were not performed?
 4. Are there work duties which if not performed would alter the central purpose of the position? If so, they are likely not essential duties.
 5. What amount of time is spent performing the function requiring accommodation? If the job task requires minimal time this is likely not an essential job task, for example signing for packages.
-

Work Environment

In addition to the review of essential job functions, it is important to evaluate the work environment

The work environment is the space a person needs to work in to perform the essential job duties. It is important to evaluate if the space (on-site or remote) has an impact on the essential job functions.

Example:

A cashier is required to be physically on campus to complete the essential job function of checking out items from the store, and as such, a remote or digital environment would not support the essential functions required to be performed in-person.

In comparison, where the essential job functions of an administrative role may include data entry, scheduling meetings, completing journal entries etc., an on-site work environment 100% of the time may not be essential to perform the functions of the role and a supervisor may consider whether the role can be performed in a hybrid environment (combination of remote and on-site), with little to no impact on successfully performing essential job functions.

Some points to consider when evaluating the work environment in relation to remote work:

1. What on-site aspects of the role are critical for departmental success?
2. What job responsibilities must be completed on site to meet service expectations?
3. Do the job duties require or strongly suggest that the individual attend their job in person all the time, or could some of these duties be completed effectively remotely?

Other points to consider in relation work environments:

4. Can flexibility be built into the role's schedule or is rigidity around time and scheduling essential due to the work environment (i.e., front facing customer service roles)?
 5. Could the environment be modified for enhanced accessibility, through the implementation of a few key strategies or purchases? (Example: a specific lamp, mouse, keyboard, software)
-

Evaluation of Undue Hardship

Once a need for workplace accommodation (protected/need based) has been identified, the Code advises that employers have a duty to accommodate the needs of the employee to the point of **undue hardship**.

There are three considerations when assessing whether an accommodation would cause **undue hardship**:

- Cost – to the University not just individual faculty or departments
- Outside sources of funding – does a third party provide funding to help support the costs of accommodation
- Health and Safety Requirements

No other considerations are considered in the evaluation of undue hardship. For example, business inconvenience, employee morale, third-party preferences, *etc.* are not valid considerations in assessing whether an accommodation causes undue hardship. Undue hardship applies to the University not to an individual department or faculty.

Some points to consider when evaluating undue hardship:

1. Will the financial costs associated with accommodation alter the nature of viability of The University?
2. Has there been consideration given to outside sources of funding to alleviate the costs of accommodation?
3. If an accommodation is likely to cause significant health and safety risks, this could be considered “undue hardship.”

The following should be considered when evaluating risk:

- The nature of the risk: what could happen that would be harmful?
- The severity of the risk: how serious would the harm be if it occurred?
- The probability of the risk: how likely is it that the potential harm will occur?
- Is it a real risk, or merely hypothetical or speculative? Could it occur often?
- The scope of the risk: who will be affected if it occurs?

Any request for the purchase of items necessary to implement an accommodation properly should be made to the direct supervisor. The faculty/department is responsible for funding any such purchase. If the cost exceeds the ability of the faculty/department, the request should be forwarded in writing for consideration under, and in accordance with, the *Workplace Accommodation Fund (Appendix C)*.



Implementing an Accommodation Plan

This is a collaborative process, and the discussion and implementation will involve: the employee and supervisor along with the following workplace parties where relevant: union/employee representative (if applicable); Human Resources Services; the attending physician.

Human Resources is to be consulted when:

- Employee's initial accommodation request is greater (all requests other than hybrid/remote work) than 3 months.
- To review workplace accommodations as needed at approximately 6 months.
- For requests that employees identify as ongoing/permanent.
- When the ability to accommodate may not be possible due to undue hardship or the impact to essential job duties.
- Where the accommodation plan for an employee results in a permanent reduction of hours or there is a significant and permanent re-allocation of work duties to the extent that the appointment or job duties has changed, the position will be re-evaluated and a change in pay may occur, subject to any applicable collective agreement or association agreement.

Documenting the Accommodation Plan

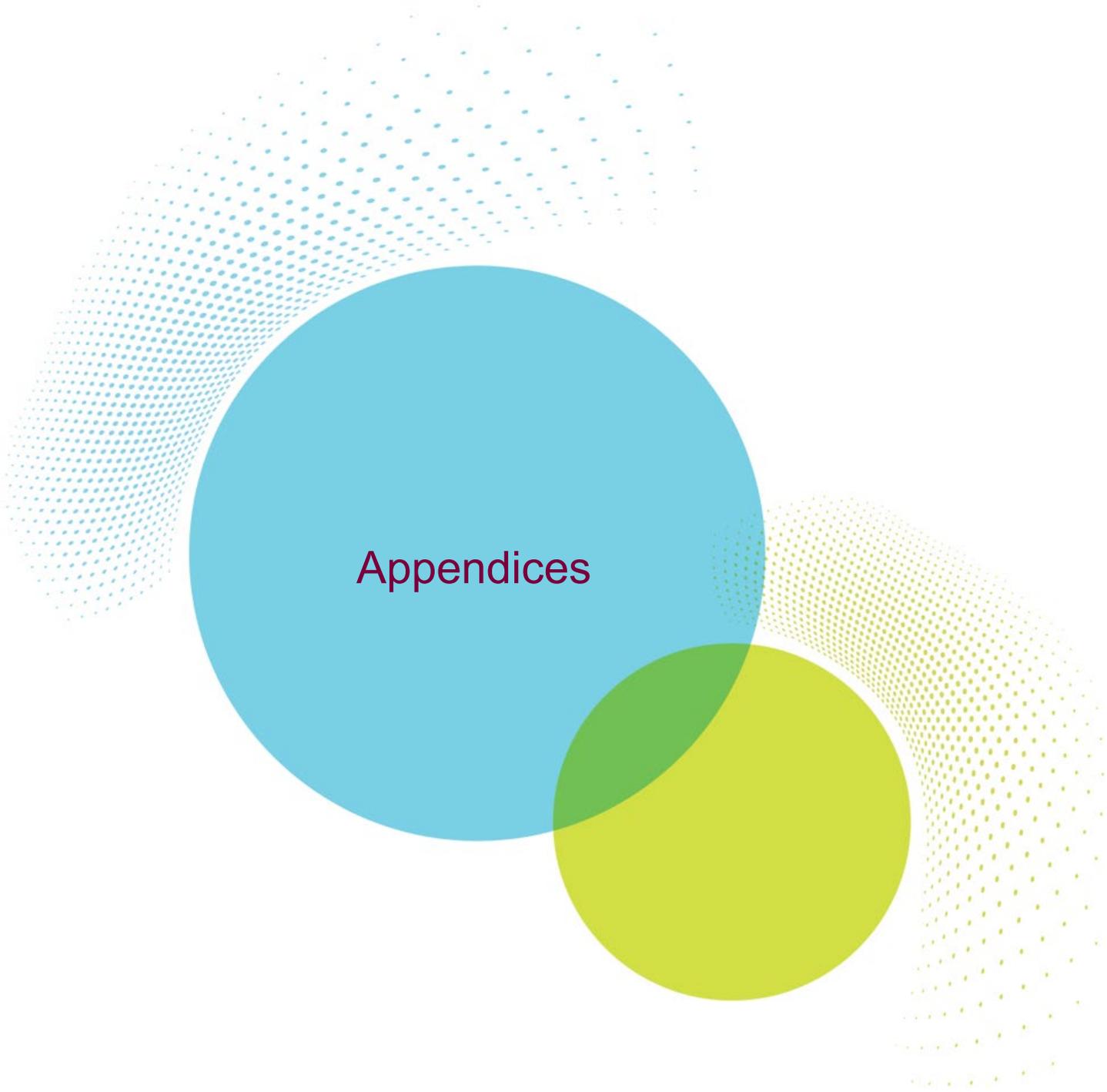
- For ongoing accommodations, the accommodation plan will be created in consultation with Human Resources Services
- Temporary accommodations should be documented by the employment supervisor and department.
- All accommodation plans should include:
 - Person(s) responsible
 - Person(s) who will be involved (including medical experts, co-workers, if applicable).
 - The decision-making process used to develop the plan.
 - The timelines for putting the accommodation in place.
 - Date of review, if applicable
 - Its duration and the nature of the follow-up evaluation; and
 - Acknowledgment of workplace parties, confirming that each party understands and agrees to its/their obligations.
 - The content of an accommodation plan will depend on the individual circumstances of each case.

Privacy & Confidentiality

An individual's personal information will only be collected, used, and disclosed in accordance with the applicable privacy legislation. Disclosure of diagnosis for disability related accommodation should not be requested by supervisors and employees should not **disclose diagnostic information**.



The HR team is committed to providing guidance to leaders and employees at anytime throughout this process.



Appendices

Appendix A:

Accommodation Requests in a Global Pandemic

Recognizing that each accommodation request must be considered on an individual basis. This section provides some pandemic-specific circumstances where temporary accommodation should be considered.

Employers expect that employees will continue to perform their work unless there is a reasonable cause why they cannot. An example of a legitimate reason can include:

- Unavailable childcare and/or school closures
- Care of a family member who is ill
- Limited number of support systems available due to health directives
- Situations where it may not be safe for the employee to be at work
 - Underlying health condition of child or other family members
 - Employees' underlying health condition
 - Where the requirement of masks prevents employees with communication / hearing disabilities from being able to execute functions of their jobs

Temporary work from home accommodation, of up to 6 months, can be confirmed by the employment supervisor, provided it is available. Temporary accommodation arrangements should be documented in writing and should include the start and end date of the accommodation, the details of the accommodation being provided, and a date by which the accommodation arrangement shall be reviewed. Contact [Human Resources](#) for support with accommodations that are required beyond 6 months, are complex in nature, or if remote work is not available and accommodation in the physical work environment has been requested.

Health and Safety Considerations

Under the Occupational Health and Safety Act, employees have a right to refuse unsafe work.

- Work refusals are based on reasonable belief that the University has not taken the necessary measures to protect employee health and minimize the potential exposure to a hazard
- As with any workplace hazard, the University is responsible for taking every reasonable precaution to protect the health and safety of employees
- It is important to have conversations with employees about the Health and Safety Measures in place to protect employees and to listen to any concerns raised by employees on what other measures would be supportive to their health and safety.
- [Workplace Health & Safety Guidance During COVID-19](#)

Appendix B:

Resolution and Complaint Process

Where an employee or job applicant is dissatisfied with the accommodation process, or believes that their request for accommodation has not been handled in accordance with the policies or procedures or the Code, the employee or job applicant may address the concerns with the supervisor or the following offices:

- Human Rights and Dispute Resolution Program of the Equity & Inclusion Office (all community members)
- Student Support & Case Management (students)
- Faculty of Health Sciences Professionalism Office (all community members in the Faculty of Health Sciences)
- Employee / Labour Relations (all employees)
- Union or Association
- Ombud's Office

Further discussion can help ensure that the employee's or job applicant's concerns are addressed and can assist in the identification of alternative solutions, where appropriate, and within the University's operational requirements.

Appendix C:

Workplace Accommodation Fund

Criteria:

If the individual is an employee:

Expenses must be for the benefit of the current employee who is covered by the appropriate legislation or policies and has requested accommodation through the McMaster Workplace Accommodation Policy to:

1. Retain their current position, or
2. Be promoted into a position for which they are qualified and determined to be the most suitable candidate, or
3. Qualify for advancement in the workforce.

If the individual is an applicant for a position expenses must be for the benefit of a potential McMaster employee covered by the Code to:

1. Be recruited for a job competition, or
2. Be interviewed, or
3. Be hired for a position, for which he or she is qualified.

A request for funding must meet the following criteria:

- Where expenses can be covered through alternative sources of funding (e.g., Workplace Safety & Insurance Board; Extended Health Care Insurer; Ontario Assistive Devices Program), these options should be exercised prior to any request for funds being made to the Fund.
- Expenses must be of a one-time specialized nature not generally covered by departmental budgets. Funds will cover the difference in cost between regular equipment or operations and the cost to address a special requirement.
- Money from the Fund will only be used for one-time expenditures in a fiscal year to accommodate individual employees or applicants who are covered by appropriate legislation or policies. The Fund will be used for the purchase of goods or services to initiate, facilitate, or implement the accommodation.

The Fund does not cover:

- Items or services required by departments in serving the public (e.g., advertising a University program to the public in formats accessible to people who are blind)
- Maintenance or repair costs, and
- Items or services the need for which did not arise as a direct result of the job or position.

If maintenance or replacement of accommodation goods is required, application will be made to the Vice President for the area in which the employee requiring the accommodation works.

Requests for Funding

A request for funding must be made to Human Resources, in accordance with the provisions of the McMaster University Policy on Workplace Accommodation. All requests for funding will be made through Employee Health Services. Requests meeting the funding criteria will be forwarded to the Assistant Vice-President Finance and the Assistant Vice-President Human Resources, who will decide jointly whether to approve the expenditure.

All goods and services purchased shall be, and remain the property of, McMaster University and shall not be removed from campus without written approval of the appropriate supervisor. In addition, goods or services purchased by the Fund will go with the employee in the event of transfer or promotion to another position in another department or unit. Goods or services purchased by the Fund for employment accommodation purposes must be returned to the University when the employee no longer requires them or when the employee leaves the University's employ. Human Resources Services will be notified of the relocation of equipment purchased by the Fund.

Administrative Procedures

An annual allocation of \$10,000 is provided within the Administration Division envelope to support Workplace Accommodation Fund requests. In any year in which the Fund is insufficient to meet the needs identified within that year, the Assistant Vice-President Human Resources may make application for additional funding to the Vice-President, Administration, detailing the need for additional funding.