



THE CANADIAN CENTRE FOR  
**GENDER+SEXUAL  
DIVERSITY**



## **Canadian Centre for Gender and Sexual Diversity (CCGSD) Accommodation Policy and Procedures**

*This policy is based on the template provided by the Canadian Human Rights Commission:  
<https://www.chrc-ccdp.gc.ca/eng/content/template-developing-workplace-accommodation-policy>*

**Approved by Board of Directors: May 29, 2020**

**Reviewed by Board of Directors: n/a**

### **Policy Statement**

CCGSD is committed to fostering an inclusive workplace where all employees are treated with respect and dignity.

CCGSD will act in a manner consistent with its obligations under the Canadian Human Rights Act and the Employment Equity Act.

CCGSD will provide a workplace that ensures equal opportunity free from discrimination based on race, colour, national or ethnic origin, religion, age, sex (includes pregnancy or child-birth), sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability (includes mental or physical disability, disfigurement, and dependence on alcohol or a drug), or conviction for an offence for which a pardon has been granted or a record suspended.

CCGSD will provide workplace accommodation, to the point of (but not including) Undue Hardship (as defined below). The purpose of accommodation is to ensure that individuals who are otherwise able to work are not discriminated against by being excluded from doing so when working conditions can be adjusted without causing Undue Hardship to the employer.

### **Application**

This policy applies to all current employees and applicants for employment of CCGSD, including full and part-time, casual, contract, permanent, and temporary employees. This policy also applies to employees on approved leave including short and long-term disability leave. This policy applies to all aspects of employment including, but not limited to, recruitment, selection, training, promotion, transfers, work arrangements, compensation and benefits, and termination of employment.

### **Definitions**

An “Inclusive Workplace” means that all employees have the opportunity to contribute and participate in the workplace in a barrier-free environment. Critical to the notion of an inclusive workplace is a robust accommodation policy.

“Accommodation” means taking steps to adjust rules, policies, practices or situations that have a negative impact on an individual or groups protected under the Canadian Human Rights Act.

“Undue Hardship” occurs when accommodation adjustments to the workplace would be prohibitively expensive or create undue risks to health or safety. Each situation will be viewed as

unique and assessed individually. A claim of Undue Hardship must be supported with facts and a detailed analysis of options; impressionistic or speculative reasons will not suffice.

The following are examples where accommodation could cause Undue Hardship:

- The nature of CCGSD's work is program delivery. For folks who hold such positions, Undue Hardship includes reputational damage due to the repeated cancelling/rescheduling of workshops/conferences/programs.
- Financial loss for the organization due to multiple absences or incomplete work.
- Quality issues in workshop/conference/program development (can be caused by the lack of collaboration between coordinators or not keeping up with the approaches of other programs).
- Accommodations that could pose a safety risk to other staff members or volunteers (including Board and management).
- Significant impacts to organizational operations:
  - CCGSD's programs are led by coordinators with specific expertise in their general area (e.g. Intimate Partner Violence, Sports Inclusion); however, approaches to workshops and information sharing among staff is integral for the success of all of our programs. Staff must be able to work from the office a minimum of 2 days per week.

## **Responsibilities and Expectations**

Accommodation is a shared responsibility between employees, supervisors, and CCGSD, as the employer.

CCGSD is responsible for:

- eliminating barriers that prevent people from accessing, or being included in, the workplace;
- minimizing the need for individual accommodation by regularly reviewing rules, policies, by-laws, and practices to ensure that they are not discriminatory;
- ensuring that all employees and job applicants are advised of their right to be accommodated;
- dealing with requests for accommodation in a timely, confidential, and sensitive manner;
- providing individual accommodation to the point of (but not including) Undue Hardship; and
- ensuring that this policy is effectively implemented.

Supervisors are responsible for:

- fostering an inclusive work environment by treating all employees and job applicants with respect and dignity;
- identifying and eliminating barriers that prevent people from accessing, or being included in, the workplace;
- dealing with requests for accommodation in a timely, confidential, and sensitive manner;
- informing individuals requiring accommodation of the information they need to provide to be accommodated;
- generating accommodation options based on the information provided about the individual's accommodation need(s);

- involving individuals requiring accommodation in the search for accommodation; and
- initiating a discussion about accommodation when they are aware that an employee or job applicant may need accommodation but is unable, for any reason, to articulate that need.

Employees and job applicants are responsible for:

- making their accommodation needs known. This does not require the disclosure of the specific cause of their needs but only the effects that create the need for accommodation;
- helping to identify potential accommodation options;
- providing documentation in support of their request for accommodation, including information about any restrictions or limitations; and
- accepting an offer of accommodation that meets their needs, even if it is not their preferred accommodation option.

Employees and job applicants can expect:

- to be treated with respect and dignity;
- to have their needs accommodated up to the point of (but not including) Undue Hardship; and
- to be informed of the reason(s) if their accommodation request is denied.

## **Procedures for Accommodation**

### *Job Applicants*

When contacted for an interview, job applicants will be advised that CCGSD has an accommodation policy and asked whether they require accommodation to participate in the hiring process.

The Executive Director or Office Manager will evaluate the job applicant's request for accommodation and may request more information from the applicant to facilitate the accommodation.

If a request for accommodation is denied, the reason(s) why will be clearly communicated to the job applicant.

### *Employees and Supervisors*

An employee may request accommodation by notifying their direct manager. Alternatively, accommodation needs may be identified through supervisor and employee collaboration in response to concerns raised by the supervisor.

The supervisor will document the request, including the employee's name, position, and date of the request, any details provided by the employee, and any accommodation options suggested by the employer or employee.

The supervisor may request supporting documentation from the employee in order to identify accommodation needs and options (i.e. details of restrictions or limitations).

When dealing with an accommodation request based on disability, the supervisor should refer to Annex A which provides guidance on asking for medical information to support the accommodation request.

The supervisor will consider accommodation options including, but not limited to: workstation adjustments; reassignment of job tasks; changes to scheduling or hours of work; leaves of absence; and temporary or permanent reassignment.

The supervisor will discuss available accommodation options with the employee. The accommodation preferences of the employee will be taken into account. However, the supervisor may proceed with an option that is less costly or easier to provide, where doing so meets the employee's accommodation needs. The supervisor will clearly communicate the reason(s) for their decision to the employee.

The supervisor will review the accommodation measures with the employee on a regular basis to confirm that the accommodation measures continue to be necessary and effective.

If the available accommodation options raise the likelihood of causing undue hardship, the supervisor will refer the matter to the Board of Directors for a final decision.

A designated member of the Board of Directors will ensure that all accommodation options short of Undue Hardship have been considered prior to refusing accommodation. If a request for accommodation is denied, the designated member of the Board of Directors will clearly communicate the reason(s) why to the employee.

### **Appeals**

If an employee or applicant has been denied accommodation and is not satisfied with the accommodation offered or believes that their request has not been handled in accordance with this policy, they may request a second opinion from a second designated member of the Board of Directors.

An employee or applicant may also file a discrimination complaint with the Canadian Human Rights Commission.

### **Privacy and Confidentiality**

All records associated with accommodation requests will be maintained in a secure location, separate from employees' personnel files, and will only be shared on a need-to-know basis.

CCGSD and all individuals involved in the accommodation process will comply with the requirements of the Personal Information Protection and Electronic Documents Act (PIPEDA), as may be amended from time to time, to protect personal information as defined therein.

### **Review**

The Executive Director and the Board of Directors will review this policy and related procedures on an annual basis, or as required, and will make adjustments as necessary to ensure that it continues to meet the needs of all employees and applicants of employment of CCGSD.

### **Enquiries**

Enquiries about this policy and related procedures can be made to the Office Manager.

Date last updated: [Month, day, year]

## **Annex A**

### **Consider whether medical information is required**

Over the course of our lives, many of us will need workplace accommodation at some point. Healthy workplaces are built on mutual trust. Employers should exercise restraint in requesting medical information to support an accommodation request.

For example, if an employee's accommodation request is obviously required to meet their disability or pregnancy-related need, employers should not ask for a doctor's note or letter. Additionally, it is obvious that an employee who uses a wheelchair will need automatic door openers, elevators and/or ramps to access the workplace. Similarly, a woman in late stage pregnancy will require more washroom breaks.

Good accessible design improves the work environment for everyone. The employee with a broken leg or employees who are carrying something in their arms will also benefit from automatic door openers and access to elevators, for example.

### **Gather and consider the relevant medical information**

To appropriately accommodate an employee's disability, the employer may require information from a medical professional about the employee's accommodation needs.

Employers must keep in mind that requesting medical information for the accommodation process requires the balancing of two competing rights: (1) the employer's right to manage the workplace and (2) the employee's right to privacy.

When asking for medical information to support an accommodation request, employers must use the least intrusive means possible to obtain the medical information required to support such a request and must respect the employee's privacy rights. In most cases, the necessary medical information can be provided by the employee's doctor or healthcare practitioner. The medical information will allow the employer to make an informed decision about reasonable accommodation options.

Employers need to know:

1. Whether the employee has a disability; and if so
2. What accommodation(s) the employee needs.

### **Provide relevant information to the medical professional**

The employer should provide the medical professional with the following information:

- Description of the employee's job functions and responsibilities;
- The employee's work schedule; and
- Any other relevant information that is particular to the workplace.

## **Ask the medical professional for information (see Annex B for a template letter to request information)**

The employer should ask the following questions:

- Does the employee have a disability that requires accommodation?
- What accommodation(s) does the employee require? For example: are there any restrictions or limitations to the performance of the job?
- What is the employee's prognosis?
- If the employee is off work, are there specific recommendations for accommodation that will facilitate a safe and successful return to work?
- Are there any restrictions related to travel to and from the office? Is inclement weather a factor that needs to be considered as part of the accommodation?

### **\*\*Employers are rarely entitled to the employee's diagnosis\*\***

It is the employee's responsibility to ensure that their healthcare practitioner and their supervisor can communicate with each other.

Medical information may come in various formats – from a hand-written note to a formal report. Based on the information provided, the employer should be able to determine whether the employee:

- Is able to perform the essential duties of their position with appropriate accommodation;
- Needs to move to a different position due to their accommodation requirements; and
- Needs to be off work, and if so, for how long.

Once the medical information has been provided, the employer has the primary responsibility for accommodating the employee.

### **Include the employee in the accommodation process**

The employee has a duty to cooperate in the accommodation process. This can include attending appointments as scheduled, providing complete and accurate information to the medical professional, and providing the employer with the relevant medical information obtained (unless such information is sent directly to the employer).

The employee has the final say on whether their medical information can be released.

The employee has the right to reasonable accommodation – that is, accommodation that meets their needs – but they do not have the right to insist on their preferred accommodation.

### **Exercise caution when requesting Independent Medical Evaluations (IME)**

In certain situations, employers can ask an employee to have their accommodation needs assessed by a medical professional who is not their family doctor or healthcare practitioner. This is called an Independent Medical Evaluation or IME.

**PLEASE NOTE: employers should exercise caution and seek legal advice before requesting an IME because asking an employee to undergo an IME infringes on their privacy rights.**

As with any other medical assessment, the employer is entitled only to the minimal amount of medical information they need to accommodate the employee.

The employer cannot ask for any more medical information from an IME than they can ask from the employee's own doctor or healthcare practitioner. Likewise, the employer should provide the same information that was given to the employee's medical professional to the IME medical professional

Generally speaking, there are four situations when an employer can ask an employee to undergo an IME. Please note, however, that you should ALWAYS obtain legal advice before requesting an IME:

1. When medical information provided by the employee's medical professional is unclear or insufficient, the employer must go back to that medical professional, identify the deficiency, and request clarification. If the information subsequently provided is not responsive, the employer may then consider requesting an IME.
2. When there is a contractual right to request an employee to undergo an IME, provided, for example, in a collective agreement.
3. When there is a legislative requirement in certain industries.
4. When an employee requests the assistance of a specialist.

Good Practices if Requesting an IME:

- Allow the employee to select the physician from a list of acceptable specialists;
- Agree in advance to accept the results of the IME;
- Provide the employee with time off work to attend the IME; and
- Pay for the cost of the IME.

### **Exercise caution when removing an employee from the workplace**

Generally, an employee should not be removed from the workplace unless there is medical information to clearly support their removal. However, if an employee has health needs requiring urgent attention, or if they pose a serious risk to the safety of themselves or others, an employer should deal with the removal immediately. An employer should obtain legal advice before removing an employee from the workplace; other agencies or offices may need to be contacted.

## **Annex B**

### **Letter Template for a Healthcare Practitioner for Employee requiring temporary or permanent accommodations.**

*Note: This letter should be written on CCGSD letterhead. Please ensure that it is appropriately dated and saved in the employee's accommodations request file. This letter should be printed and provided in paper copy to the employee, as well as by email. With the employee's permission, it can be sent by email to the relevant healthcare practitioner.*

*Note: While this is written specifically for Program Coordination staff, details can be changed for administrative/management staff.*

[Insert Date: Day, Month, Year]

Dear [Healthcare Practitioner],

**Re: Request for Information to Assess Accommodation Request for [Employee A]**

[Employee A] has made a request for accommodation and we require further information from you in order to meet [Employee A]'s needs appropriately.

We do not require any details regarding their diagnosis; however, we would like information regarding accommodations that may support [Employee A] while they perform their specific job duties. Their work obligations include:

- Workshop delivery [elaborate on specific program requirements];
- Significant travel (at least twice per month to another city in Canada);
- At least two days in the office per work week on a permanent basis. Please note that if the employee requires temporary accommodation, we can be flexible with this requirement; and
- Work day of 9 a.m. to 5 p.m. with appropriate breaks throughout the day, totalling 7.5 working hours per day.

In providing information regarding accommodations that [Employee A] requires, please answer the following questions:

1. Does the employee have a disability or other condition that requires accommodation?
2. What accommodations does the employee require? Are there any restrictions or limitations to the performance of their job?
3. What is the employee's prognosis?
4. If the employee is off work, are there specific recommendations for accommodation that will facilitate a safe and successful return to work?
5. Does the employee require medication or other treatment where side effects may prevent them from fulfilling their work obligations as described above?

Thank you for your time and your diligence in explaining potential accommodation options. [Employee A] is a valued member of our team and we want to ensure that we have all the information we need to ensure they are able to maintain their position and work arrangement.

Sincerely,

[Manager A]  
[Title]