

HRPOL SECTION 15 Workplace Accommodation

Frequently Asked Questions

Non-Public Funds (NPF) recognizes the value of having a diverse and skilled workforce and is committed to providing a workplace that is free of employment barriers and discrimination. This commitment is accomplished in part by having a process for employees and prospective employees to seek appropriate workplace accommodation. Workplace accommodation affords NPF employees the opportunity to carry out their work-related responsibilities by addressing their employment-related needs.

Below are some frequently asked questions concerning Workplace Accommodation.

Please Note: the following document is not a policy statement on Workplace Accommodation but is designed to address common concerns and to assist managers and employees in developing appropriate accommodation measures.

For further or specific details on the Workplace Accommodation Policy, please refer to the Workplace

Accommodation Policy and Guidelines or contact the Director Diversity and Equity.

Q 1. What is the ‘duty to accommodate’?

A 1. The duty to accommodate refers to the obligation of an employer to take measures to eliminate disadvantages to employees, prospective employees or clients that result from a rule, practice and physical barrier that has or may have an adverse impact on individuals or groups protected under the Canadian Human Rights Act (based on race, national or ethnic origin, colour, religion, sex, sexual orientation, marital status, family status and disability) or identified as a designated group under the Employment Equity Act (Women, Persons with Disabilities, Aboriginal People, Visible Minorities).

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Q 2. What is 'workplace accommodation'?

A 2. Workplace accommodation (WA) refers to the creation and maintenance of an inclusive and barrier-free work environment that caters to the needs of as many types of persons as possible to ensure that everyone is given the opportunity to perform to his or her potential.

This generally means that alterations or adjustments to the workplace or alternative work arrangements are made to remove any discriminatory effects. These adjustments can be for an individual or a group of individuals, of either short or long term, and enables employees to effectively perform their duties.

Although WA is often associated with the removal of physical barriers or the provision of technical devices, changes to policies guidelines, and procedures can also constitute accommodation.

WA may be as simple as a rearrangement of equipment, a change in work schedules, modifying job duties, or exchanging non-essential job tasks with another employee. In all considerations regarding accommodation however, the dignity of the individual requiring accommodation will be one of the most important factors to be considered.

Q 3. What is 'undue hardship'?

A 3. The *Canadian Human Rights Act* and the *Employment Equity Act* create a legal obligation on behalf of employers to accommodate the employment-related needs of persons short of undue hardship.

Although there is no strict definition of the concept of undue hardship, it can be understood as an action requiring significant difficulty or expense when considered in light of a plethora of factors ranging from the cost of the accommodation to the health and safety implications.

Some factors that might be considered in the determination of undue hardship include:

- the cost of implementing the accommodation (is the accommodation prohibitively expensive?);
- the availability of external funding;
- the size of the organization;

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- the risk to health and safety and the bearer of that risk;
- the potential for discrimination against other employees; and
- the degree of interference with the rights of employees.

Q 4. For the purposes of HRPOL Section 15, how is the workplace defined?

A 4. The workplace includes the physical work location and the greater work environment in which work-related activities take place.

Q 5. What are ‘barriers’?

A 5. Barriers can be physical barriers as well as formal or informal policies and practices that restrict or exclude persons in the designated groups from employment opportunities in NPF. There are generally three different types of barriers:

Physical Barriers: are limitations in building design, equipment or furnishings that restrict or create hazards to employees.

Systemic Barriers: inadvertently, result from the customary application of policies, practices and requirements which are not necessary for the safe and efficient operation of the business and have an unintentional adverse impact on an individual or group of individuals.

Attitudinal Barriers: are the pre-settled judgements or beliefs about individuals or groups that limit or prevent the full participation of persons or groups based on their personal characteristics.

Q 6. What are some examples of WA solutions?

A 6. The type of WA selected will vary according to the nature of the individual’s circumstances and job requirements. Each accommodation should be tailored to the individual’s needs. Accommodation plans should maximize the individual’s dignity and autonomy while minimizing discomfort.

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The following abridged list provides a brief overview of the types of arrangements that can be made:

Communications Services: Includes the provision of documents in Braille, audiotapes or enlarged print, captioning, and the use of visual aids such as overhead projectors or presentation software.

Technical Aids and Devices: Includes the provision of environmental control units, talking computers, optic scanners, keyboard and mouse adaptation, large print software and screen readers and access to TTY or TDD devices.

Position Redesign: Includes modifications of duties and the provision of flexible working arrangements such as telework, part-time work, job sharing, and flexible hours of work.

Workplace Modifications: Includes the physical, technological or mechanical alterations of the workplace such as the purchase of specialized or adjustable furniture, the installation of modified lighting, handrails, carpets or non-slip strips. It can also refer to retrofitting facilities, adjusting the height of shared items such as photocopiers, printers and fax machines and widening hallways, entrances and common areas.

Q 7. What are Alternative Formats?

A 7. Some people require other forms of communication beyond the conventional printed products so that they can have access to the information. Examples of alternative formats are below:

Alternative formats for persons with visual disabilities:

- Audio cassettes: A publication read on tape.
- Braille: A tactile reading system using raised dots.
- Descriptive narration: Action scenes, charts and other visual components are fully explained through the spoken word on a video or film.
- Diskettes: When a publication is put on computer diskette, the user can gain access to information through a computer connected to a Braille printer, voice synthesizer, large print monitor or any other system providing access.

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- Large print: A publication using 14 point type or larger.
- Modems: A modem transfers information between computers via the telephone line.

Alternative formats for persons with hearing disabilities:

- Captioned films and videos: The spoken word is repeated in written text on the bottom of the screen as in subtitles. "Open" captions can be seen by everyone while "closed" captions are visible only through a special decoder.
- Real time captioning: The spoken word is transferred to written text by a typist while a speaker is speaking. The text is displayed on a large screen. For people with a good command of English or French, it is an alternative to sign language.
- Signed films and videos: The spoken word is transferred to sign language on screen.
- TTYs or TDDs: A telecommunications device for people who cannot use the regular telephone that enables conversation in written text on a printout or electronic screen.

A 8. Does the provision of workplace accommodation extend to applicants of NPF?

A 8. Candidates applying for positions within NPF are not bound by HRPOL Section 15; however, they are afforded a limited right to be accommodated short of undue hardship during the competitive process.

Q 9. Is the Duty to Accommodate only linked to persons with disabilities?

A 9. HRPOL Section 15 goes beyond accommodating persons with disabilities. Accommodation is based not only on individual limitations due to a disability, but also includes accommodation based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status and family status, or conviction for which a pardon has been granted.

Q 10. Who pays for workplace accommodation?

A 10. Managers are responsible for recurring and non-recurring costs

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associated with WA for their employees through the normal business planning process.

Q 11. What are the major benefits of accommodation?

A 11. In addition to supporting an inclusive, barrier-free, and fair work environment, accommodation of employment-related needs of employees can reduce operational costs generally by:

- broadening the pool of qualified candidates;
- developing creative planning and problem-solving techniques within the workplace;
- providing enhanced service to clients and understanding their needs better;
- reducing the use of sick days;
- saving time and money on formal resolution processes (arbitration, litigation, etc.);
- expanding the scope of an employee's career within the organization; and
- minimizing the costs associated with the replacement of an employee (e.g. training).

Q 12. Is accommodation expensive?

A 12. It is difficult to estimate the average cost of providing workplace accommodation.

However, The Canadian Council on Rehabilitation and Work offers the following estimates for the costs of accommodation in (2001):

- 50% of all accommodations are free of cost;
- 30% of all accommodations cost less than \$500; and
- 20% of all accommodation cost more than \$500.

Furthermore, in a publication entitled "Barrier-Free Employers", the Canadian Human Rights Commission (CHRC) reports that, "...employers can accommodate most adaptation needs for \$500 or less. These costs are even more reasonable when you consider them amortized over the entire duration of the employee's stay in your organization."

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Q 13. Is there a mechanism of redress for employees who are unsatisfied with a decision pertaining to their request for WA?

A 13. An employee who has been denied accommodation, who is not satisfied with the solutions offered, or believes the request has not been handled in accordance with the WA guidelines and procedures, has the right to grieve the decision by:

- filing a complaint under the Canadian Human Rights Act; or
- submitting a grievance in accordance with HRPOL Section 11, or their collective agreement.

Q 14. What is the reporting mechanism for workplace accommodation?

A 14. All managers who receive requests for accommodation must document and maintain accurate records in relation to these requests in accordance with the associated Guidelines. This information is forwarded to the responsible Human Resource Manager (HRM) for retention within the HR office. The HRM will send a copy of the documents to their Regional Manager Human Resources (RMHR) for monitoring and reporting. Annually, the RMHR will submit a detailed WA report to Director Diversity and Equity (DDE) who will consolidate for corporate reporting to governing authorities.

Q 15. How will my personal and medical information be handled if I file a request for WA?

A 15. All documents relating to individual WA requests are classified as Protected B and are only to be disclosed on a need-to-know basis. Certain situations may require disclosure of information and failure to provide consent may limit options to be considered. Employees requesting WA will be asked to agree to the Consent to Disclose Information on the Request for Workplace Accommodation form to allow the WA request to be properly serviced by all stakeholders. Any disclosure with respect to an employee's specific need for accommodation will be consistent with the requirements of the *Privacy Act*.

Files pertaining to the request for accommodation, including all medical information will be stored at the HR office separately from the employee's

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personal file. Therefore, WA requests are handled with the utmost confidentiality.

Q 16. Are acquired devices and equipment transferable when an employee transfers?

A 16. In accordance with the WA Guidelines, where feasible, an employee may transfer any accommodation-related device or equipment acquired within one NPF location/division to another. This means that the employee is entitled to leave with the equipment, device, technical aid, etc. (chair, computer screen, software, phone, desk, etc.) used to accommodate his/her needs in the workplace from one NPF position to the next.

If the employee terminates his/her employment with NPF, or if the accommodation is no longer required, the equipment must be returned to his/her current immediate manager/supervisor.

Q 17. Do employees need to self-identify in order to obtain accommodation?

A 17. An employee or candidate does not have to self-identify to obtain accommodation. The self-identification process is voluntary and the information obtained from it is confidential. No one can be forced to self-identify to receive accommodation or after he/she has been accommodated.

Q 18. What role do unions play with respect to HRPOL Section 15?

A 18. Unions and bargaining units are not directly bound by HRPOL Section 15 and thus cannot be assigned specific roles and responsibilities. However, if an employee feels that his or her WA request has not been satisfactorily addressed, he or she may appeal the decision by filing a grievance. In addition, employees may also seek the advice of their union representative throughout the WA process.