

The Duty to Accommodate: A Guide for Supervisors



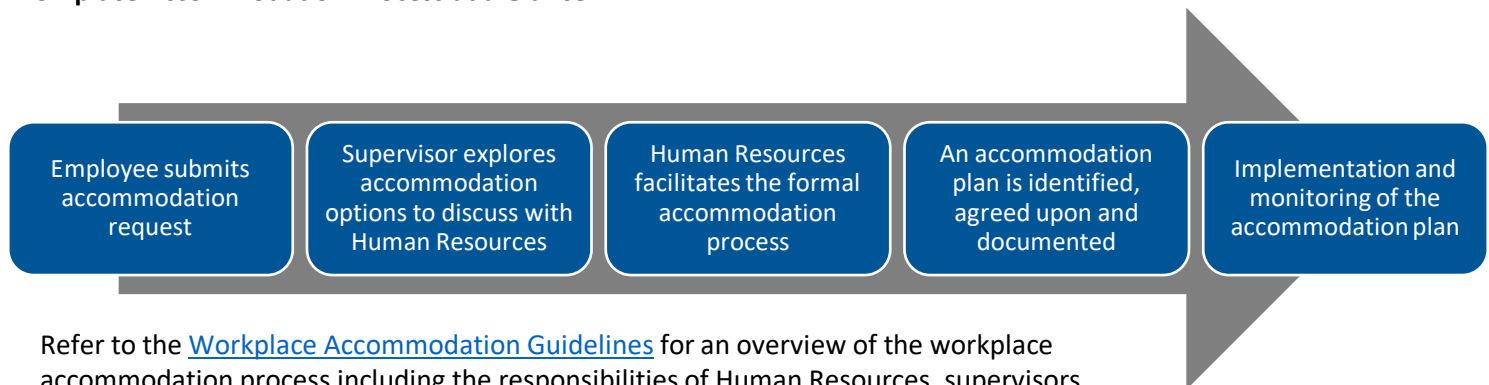
University
of Windsor

Office of the Vice-President, Human Resources

Workplace accommodation refers to the University's obligation under the Ontario Human Rights Code to prevent and remove barriers and provide reasonable accommodation to the point of undue hardship. The principle of accommodation applies to all grounds of the Code but within the context of employment most accommodation needs relate to disability, religion, and family status.

The principle of accommodation involves three factors: dignity, individualization, and inclusion. Given these factors, each accommodation request must be considered on an individual, case-by-case basis to determine the most reasonable and appropriate accommodation based on the employee's individual circumstances. The process of identifying an appropriate workplace accommodation is a consultative process involving the University, the individual, the union/association, if applicable and any other party that may need to be engaged, such as the employee's physician, a third-party medical consultant and/or a religious leader.

Workplace Accommodation Process at a Glance



The Role and Responsibilities of Supervisors – Overview of Key Steps

Supervisors are a key partner in the accommodation process. The duty to accommodate is not about employee preferences, it is about removing barriers to enable an employee to attain the same level of performance or to enjoy the same level of benefits and privileges experienced by others and contribute fully to the University.

Supervisors should communicate in such a way to make employees feel supported. The communication should be grounded in respect, care, compassion, and empathy. Throughout the process it is the responsibility of supervisors, and all parties involved, to protect the employee's dignity, right for privacy and maintain confidentiality.

The following is an overview of the key steps that supervisors need to follow to respond to employees' accommodation requests:

1. Receive/Acknowledge Receipt of the Accommodation Request

Employees are encouraged to make an accommodation request in writing directly to their immediate supervisor using the form available [online](#). Supervisors are asked to receive these requests with empathy and in good faith.

Upon receiving the request, the supervisor is asked to acknowledge receipt of the request via e-mail. The acknowledgement should:

- Advise the employee that as a next step you will be reaching out to Human Resources to formally initiate and facilitate the accommodation process.
- Invite the employee to connect with you should they have any questions/concerns.

Supervisors should note, that in certain circumstances, employees may feel more comfortable bringing forward the request directly to Human Resources and/or the union (if applicable). In these circumstances, Human Resources will notify the supervisor of the accommodation request received.

Employee Request for Workplace Accommodation Form

Designed to gather the initial information required to facilitate the accommodation process including:

- Reason(s) for the accommodation request.
- Type of accommodation being sought.
- Expected duration of the accommodation need.

In the case of a disability/medical accommodation, this form provides employees guidance regarding medical documentation to substantiate the request.

2. Explore Potential Accommodation Options to Discuss with Human Resources

Supervisors are required to exercise due diligence to resolve requests for reasonable accommodation in a timely manner.

All employees have the right to be accommodated up to the point of undue hardship. Upon receiving the request, the supervisor is asked to:

- Review the accommodation request to understand the individual needs.
- Explore and evaluate potential reasonable options for addressing the accommodations needs. This could include consultation with your direct senior manager. Remember that what is needed or works in one situation may not be appropriate for another.
- In exploring options consider the:
 - Information submitted by the employee
 - Work environment
 - Operational needs of the department
 - Essential duties of the position
 - Provisions in the Collective Agreement (if applicable)
- If applicable, identify any implications of the potential accommodation solution(s) for the rest of the team/department.

Undue Hardship

Employers have a duty to take reasonable steps to accommodate an individual to the point of undue hardship. This is a high standard particularly for large employers like the University of Windsor. The factors considered include:

- Financial costs
- Health and safety concerns
- Outside sources of funding

Given that the accommodation process is a consultative process, it is important that at this stage the supervisor does not discuss any potential options for addressing the accommodation needs with the employee. The purpose of this step is for the supervisor to start identifying potential options in preparation for the discussion with Human Resources.

3. Contact Human Resources to Discuss the Accommodation Request Received and to Facilitate the Accommodation Process

The supervisor must immediately contact the appropriate Labour Relations Manager or Human Resources Manager (Managerial and Professional Group) to discuss the accommodation request and determine next steps.

In addition to forwarding the Employee Request for Accommodation Form and any other information submitted by the employee, the supervisor should discuss any potential reasonable options for addressing the accommodation needs emerging from step 2.

The Labour Relations Manager/Human Resources Manager will review the information provided by the supervisor and will discuss next steps based on the nature of the accommodation request. Depending on the situation, an interim accommodation may be considered.

As outlined in the Workplace Accommodation Guidelines, Human Resources will:

- Manage the accommodation process in a manner that respects the dignity and privacy of the individual and their right to confidentiality.
- Engage required parties in the process and keep them informed.
- Provide guidance to the parties throughout the process.
- Seek, when required, additional information from the employee and/or experts to confirm individual circumstances and/or determine appropriate information.
- Work collaboratively with supervisors, employees, union/association, and other parties as required, to identify reasonable accommodation options and establish an accommodation plan.
- Document the accommodation request received and actions taken.

4. Participate in the Accommodation Process Facilitated by Human Resources

Recognizing that the accommodation process is a shared responsibility, it is expected that everyone involved, including supervisors, share information and work cooperatively towards identifying a reasonable accommodation. Supervisors are encouraged to contact Human Resources to discuss any concerns and questions related to the accommodation process.

An accommodation plan results from this process which is agreed upon and documented.

5. Implement and Monitor the Accommodation Plan

Once an accommodation solution/plan is agreed upon and finalized, it will be documented in writing for all parties. It is the responsibility of the employee, supervisor, Human Resources, and the union/association, if applicable, to work collaboratively to implement and monitor the agreed upon plan. Employees are advised to contact their immediate supervisor should the agreed upon plan may need to be modified.

Depending on the accommodation solution, as part of the implementation, the supervisor may need to make the necessary arrangements to purchase equipment, modify schedules, establish guidelines to support remote work, etc.

Examples of Reasonable Accommodations Within the Context of the COVID-19 Pandemic

As we prepare for a phased and safe return to campus, the university recognizes that some employees may require an accommodation due to medical reasons and/or family responsibilities.

Medical accommodations in the context of COVID-19 pandemic:

- An employee may require a medical accommodation due to their diagnosed medical condition (i.e., being immunocompromised) including physical and mental health disabilities and addictions.
- Medical documentation will be required to substantiate the request for accommodation. The University requires information from the employee's treating physician to understand the medical restrictions or limitations that the employee is experiencing from their medical condition, illness, or injury as they relate to their ability to attend work and/or perform their duties and responsibilities. Information regarding their prognosis will also be required.
- Human Resources will work with the employee to facilitate getting the supporting medical documentation.
- When applicable, the health and safety measures that the University has put in place to protect the campus community will need to be considered. Key questions: Can the current measures address the accommodation needs? Can additional health and safety measures be put in place to address the medical accommodation needs?

Family status accommodations in the context of COVID-19 pandemic:

- An employee may request an accommodation based on family status. This may involve being in a parent and child relationship based on care, responsibility, and commitment. For instance, a parent caring for children or caring for aging parents.

- These requests do not include voluntary family activities, such as family trips, participation in extracurricular sports events, etc. as these are parental choices rather than parental responsibilities.
- These requests need to be reviewed within the context of the COVID-19 pandemic and the supports available to the employee. For instance, what are the Ontario Public Health Guidelines and measures at the time of the request? Are schools/daycares/camps closed? Are there lapses in childcare or after school programs? Does the employee have a spouse/partner or family member that can support them and share the family responsibilities?
- Employees are required to provide information to outline what they have done to self-accommodate their family status situation and that no such alternative solution is reasonably accessible.

Workplace accommodations can come in many different forms given that each individual has unique needs. The table below provides some general examples of accommodation options within the context of the COVID-19 pandemic.

Accommodation Need (examples)	Accommodation Form (examples)	Accommodation (examples)
<ul style="list-style-type: none"> • Unavailable childcare options and/or school closures. • Inability of a family member to provide childcare because they are ill or in self-isolation. • Care for a family member that is affected by COVID-19. 	<ul style="list-style-type: none"> • Creating an alternate or modified work schedule. • Changing work location. 	<ul style="list-style-type: none"> • Alternate work hours based on needs/availability of childcare. • Modified work hours (later or earlier start/end date). • Modified break schedule. • Remote or hybrid work (some days in the office some days remote).
<ul style="list-style-type: none"> • The employee’s underlying health condition (immunocompromised, medically vulnerable) that may make the employee more susceptible to an adverse health outcome should they contract COVID-19. • The employee’s mental health condition. 	<ul style="list-style-type: none"> • Changing work location. • Introducing more PPE or other safety measures. • Modifying how the essential job duties are carried out. • Alternate work schedule 	<ul style="list-style-type: none"> • Remote work arrangement or alternate work location on campus. • Altering the start and end time to minimize contact with others. • Adding safety barriers, giving the employee more PPE, etc. • Shift from face-to-face contacts to virtual/telephone interactions with others. • Provide the employee more frequent breaks.

Questions?

Supervisors are encouraged to contact a member of the Human Resources, Academic and Staff Labour and Employee Relations team for questions emerging from the review of this document. Contact information can be found on the Human Resources website at <https://www.uwindsor.ca/humanresources/about-hr/our-team>

Resources Consulted:

- Ontario Human Rights Commission. Meeting the Accommodation Needs of Employees on the Job (2008). Retrieved from: <http://www.ohrc.on.ca>.
- Ontario Human Rights Commission. A Policy Primer: Guide to Developing Human Rights Policies and Procedures, 2013. Retrieved from: <http://www.ohrc.on.ca>.
- Ontario Human Rights Commission. COVID-19 and Ontario’s Human Rights Code – Questions and Answers. Retrieved from: <http://www.ohrc.on.ca>.
- University of Windsor policies, procedures, and collective agreements.
- Accommodation policies, guidelines, resources from other Universities including but not limited to McMaster, Wilfrid Laurier, Calgary, Regina, Alberta, OCAD, Carleton.