



## YORK CATHOLIC DISTRICT SCHOOL BOARD

**No. 422**

**Section: Staff**

**Approved:** February 3, 2004

**Revision Date:**

**Implementation:** Superintendent of Human Resources

### **POLICY:**

#### **Workplace Accommodation Policy**

#### **STATEMENT OF COMMITMENT**

The York Catholic District School Board is a Catholic educational community committed to the principle of equal opportunity. All employees of the York Catholic District School Board have the right to equal treatment with respect to employment without discrimination because of disability or a perceived disability. The right to be free from discrimination includes the right to reasonable accommodation.

It is the policy of the York Catholic District School Board that the accommodation of every employee with a disability requiring accommodation, should be accomplished in such a way as to preserve and enhance the employee's personal dignity, self-respect and self-worth. The accommodation process is an individualized process, which takes account of all relevant circumstances.

Notwithstanding the existence of this policy, every person has the right to seek assistance from the Ontario Human Rights Commission.

#### **PURPOSE OF THE POLICY**

This policy is designed to:

- Clearly state the Board's commitment to providing an environment for employees to work free from discrimination on the basis of disability;
- Establish accommodation procedures for employees with either a physical or mental disability.

#### **APPLICATION OF THIS POLICY**

Who is covered?

For the purposes of this Policy "employee" refers to all employees currently employed by the York Catholic District School Board.

#### **WHAT IS A DISABILITY?**

The definition of "disability" at section 10(1) of the *Ontario Human Rights Code* is as follows:

*"Because of disability" means for the reason that the person has or has had, or is believed to have or have had,*

- 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, including diabetes mellitus, epilepsy, and degree 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 on a wheelchair or other remedial appliance or device,*
- b) A condition of mental retardation or impairment,*
- c) A learning disability, or a dysfunction in one or more processes involved in understanding or using symbols or spoken language,*
- d) A mental disorder, or*
- e) An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.*

## **DUTY TO ACCOMMODATE**

Section 17 of the *Ontario Human Rights Code* creates an obligation to accommodate, specifically under the ground of disability. The Board is legally obliged to accommodate employees with a disability to the point of undue hardship.

## **TERMINOLOGY**

All the terms used in this Policy and procedures hereunder shall bear the meanings ascribed to them under the *Human Rights Code* as applicable. The Board reserves to itself all defenses available at law.

### **CROSS REFERENCE**

- Workplace Accommodation Procedures

## **WORKPLACE ACCOMMODATION PROCEDURES**

The following guiding principles of disability accommodation shall apply:

- Accommodation is to facilitate the employee's achievement of essential job requirements in the workplace environment.
- The responsibility for providing accommodation rests with the Board; the employee is responsible to request accommodation and to participate in the provision of accommodation.
- The needs of employees with disabilities are to be accommodated in a manner that respects their dignity, to the point of undue hardship.
- There is no set formula for accommodation. Each person has unique needs and it is important to consult with the employee and his/her union representatives, if applicable.
- Taking responsibility and showing willingness to explore solutions is a key part of treating people respectfully and with dignity.

## **DUTIES AND RESPONSIBILITIES IN THE ACCOMMODATION PROCESS**

The employee with a disability is required to:

- Request accommodation of a disability under these procedures to the Principal/Supervisor (although the Principal/Supervisor need not necessarily know what the disability is);
- Make their needs known to the best of their abilities, in writing, in order that the requested accommodation can be considered;
- Participate in discussions regarding possible accommodation solutions;
- Cooperate with any experts whose assistance is required to manage the accommodation process;
- Work with the accommodation provider on an ongoing basis to manage the accommodation process;
- Answer questions or provide information regarding relevant restrictions or limitations including information from health care professional(s), where appropriate, and as needed;
- Discuss the disability with only persons who need to know.

Unions and professional associations are required to:

- Respond to an employee seeking support regarding a workplace accommodation.

The Board is required to:

- Accept the request for accommodation in good faith, unless there are legitimate reasons for acting otherwise;
- Obtain expert opinion or advice where needed;
- Take an active role in ensuring that alternative approaches and possible accommodation solutions are investigated and canvass various forms of possible accommodation and alternative solutions, as part of the duty to accommodate;
- Keep a record of the accommodation request and action taken;
- Maintain confidentiality;
- Limit requests for information to those related to the nature of the limitation or restriction so as to be able to respond to the accommodation request;
- Grant accommodation requests in a timely manner, to the point of undue hardship, even when the request for accommodation does not use any specific formal language; and
- Establish “essential” from the “non-essential” duties of the job through a collaborative process.

### **ACCOMMODATION PROCESS:**

1. Employee documents request for an accommodation due to a disability and submits request to Principal/ Supervisor or directly to Wellbeing Coordinator if there are complex needs/requirements.
2. Specific barriers are to be discussed between the employee and Principal/Supervisor (and/or Wellbeing Coordinator) with possible solutions to remove the barriers.
3. In many cases, the Principal/Supervisor will be able to accommodate the request and will document the accommodation plan.
4. If the Principal/Supervisor requires further assistance due to greater complexity of needs, he/she will consult with the Wellbeing Coordinator to further assist with the accommodation.
5. At the request of the Employee, Principal/Supervisor or Superintendent of Human Resources or designate, the Wellbeing Coordinator will assist with needs assessment and/or initiate assessment and coordination of accommodation through utilization of external professional sources, when necessary.

6. The Wellbeing Coordinator will discuss the plan of action with the employee, the Principal/Supervisor and the Superintendent of Human Resources or designate to obtain approval.
7. The accommodation provider (Principal/Supervisor or Wellbeing Coordinator) shall prepare a written accommodation plan (see appendix I, Accommodation Plan). The accommodation plan should identify the objectives of the plan, the accommodation measures put in place to attain those objectives, the allocation of responsibilities under the plan and provide a timetable and measurements for the success of the plan.
8. If at any time the employee is dissatisfied with the accommodation plan and he/she has been unable to resolve the issue through discussions with the Principal/Supervisor or the Wellbeing Coordinator he/she may submit any concerns in writing to the Superintendent of Human Resources or designate for resolution.
9. The Superintendent of Human Resources or designate shall review the letter of concern and make inquiries in order to determine whether the requirements of the Board's policy and this procedure have been met. On request of the employee, the Superintendent of Human Resources or designate will provide a decision in writing.
10. If the employee is dissatisfied with the decision of the Superintendent of Human Resources or designate then he/she may submit any concerns in writing to the Director of Education.

The decision of the Director of Education is final.

NB: An employee may involve his/her union representative at any point in the accommodation process to assist the employee when exercising their rights under the collective agreement or any other relevant legislation.

**Appendix I: Accommodation Plan**

Received request for accommodation: \_\_\_\_\_(date).

Met with employee on \_\_\_\_\_(date) to discuss barrier(s)/obstacle(s) and discussed possible solution:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Accommodation plan:**

**Objectives:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Actions and Responsibilities to Obtain Objectives:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Timetable and Measurements Successful Completion:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If further assistance is required, please notify the Wellbeing Coordinator at PH: (416) 221-5051 ext. 3815 and inform the employee that you have forwarded a request.

**Signature of Accommodation Provider** \_\_\_\_\_ **Date** \_\_\_\_\_

cc: Superintendent of Human Resources or designate

cc: Employee

Personal information on this form is collected under the authority of the *Education Act*, R.S.O. 1990, c. E.2., and the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 . All personal information collected on this form will be stored in accordance with the Board's protocol on collection, storage and retention. Questions about this collection should be directed to the F.O.I. Coordinator at the Catholic Education Centre (905) 713-1211.