

Policy Title: Disability, Accommodation and Return to Work
Policy Approver: President's Office
Policy Holder: Human Resources
Category: Operational
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Next Review: September 2010

Approval Statement

With the approval of the President of Yukon College, this policy is hereby deemed in effect the 29th day of September, 2009.

President, Yukon College

Date

1. Purpose of Policy

This policy applies to job applicants, Bargaining Unit Staff, Management / Excluded Staff, Casual Staff and Contractors at Yukon University.

1.1. DUTY TO ACCOMMODATE:

The Yukon *Human Rights Act* requires that where an employee has a mental or physical disability and needs accommodation of that disability, the employer must accommodate the individual, up to the point of undue hardship. Some factors to consider in the assessment of undue hardship are as follows:

- **Safety** – The extent to which the accommodation would pose a threat to the safety of the individual or others (degree and possibility of risk)
- **Disruption of Services** – The extent to which services to the public would be affected by an accommodation
- **Contractual Obligations** – The extent to which seniority rights under the collective agreement, or other contractual obligations, or job opportunities for others would be impacted by an accommodation
- **Financial Cost** – The extent to which demonstrated costs of an accommodation would impact on the financial viability of the University.
- **Business Efficiency** – The extent to which the accommodation would impact on the efficiency of the University's operations and functions.

1.2. RESPONSIBILITIES:

a) Employees

Employees have a responsibility to communicate their needs for accommodation and to work with the University to find a reasonable accommodation. This responsibility includes providing the necessary medical information to the University. If an employee does not participate or cooperate in the accommodation process, the employee may forfeit his or her entitlement to accommodation. However, where the employer has reason to suspect there may be a need for accommodation, then the employer has an obligation to make further inquiries. An employee cannot refuse a reasonable accommodation solution just because he/she may prefer a different kind of accommodation.

b) Employer

The employer has a responsibility to review and verify requests for accommodation and to hold all information in confidence. Only the information necessary to determine what accommodation is possible will be released to those who need to know in order to assess, identify and implement reasonable accommodation in a timely manner. In cases where accommodation is not possible the employer will advise in writing why accommodation cannot be provided.

1.3. TYPES OF ACCOMMODATION:

Generally, workplace accommodation may consist of a combination of modifications, for either physical or mental disabilities. For example:

- Modifying the workplace, such as making physical changes to workstations or providing assistive devices; and/or
- Modifications to the job, such as change in duties, hours and location; and/or
- Modifications to facilities, such as access to the office.

Accommodation does not require that new work or non-productive work be created or undertaken. In some cases, retraining of the employee may also be considered.

When accommodation to the job is required, the following options should be considered, in the following order, to minimize disruption to the workplace and possible interference with the collective agreement (although there is a requirement on unions to facilitate accommodation to the point of undue hardship):

- Modifications to the current job,
- Placement in an alternate job, including a transfer to part-time or temporary part-time status,
- Modification of an alternate job, or
- Re-bundling of existing essential work.

1.4. REQUESTS FOR MEDICAL INFORMATION:

In cases where an employee is absent for a long period or for frequent periods he/she may be required to provide pertinent medical information which clearly informs the

University of the issue which is causing the absence from work and what accommodation due to a disability may be needed. This medical information usually includes:

- 1) what regular or modified duties the employee is able to perform or is restricted from performing, and/or if a graduated return-to-work is required;
- 2) prognosis (if or when the employee is expected to return to work).

In certain circumstances it may also include the nature of the medical condition which is causing the absence in order to determine appropriate accommodation. Sometimes there may be a need to provide information about the medical treatment he/she is undergoing (e.g., if the medication or treatment affects the employee's ability to perform job duties or attend work) The medical information requested will only be relevant to the job duties of the employee and/or relevant to the time period of his or her absence from work.

Employees may be required to sign an Authorization to Release Medical Information form to allow the release of the medical information from their physician to the University's physician and the Director Human Resources (or Human Resources designate). A copy of this document is attached to the policy as Appendix DP #1. In addition to this medical release, a letter may be sent to the employee's physician requesting specific information relating to the employee's absence from work and any restrictions or limitations on duties she/he is able to perform and, where relevant, what accommodation may be required This may be accompanied by a copy of the employee's job description. The University's physician may also review the relevant portion of the employee's medical file.

In some cases, to determine the ability to work or restrictions in duties, or modified duties or other accommodation needed such as alternate work, the employee may be required to be assessed by an independent medical practitioner (e.g. physician, physiotherapist, occupational therapist, psychologist, etc.) mutually selected by the University (or its physician) and the employee (or his/her physician).

The University may also require a Functional Capacity Evaluation (FCE) which examines an employee's physical tolerance related to strength, endurance, speed and flexibility.

Any medical fees which result from information requested by the University, which are not covered by a medical or benefit plan, will be paid for by the University.

Any medical information received by the University will be kept in the strictest confidence and will only be shared to the extent necessary, e.g. in discussions with the supervisor to facilitate accommodation.

If the employee does not authorize the provision of information in support of his/her medical claim, his/her sick leave benefit may not be paid. If the University does not receive information on an employee's ability to return to work, the University may ask the employee to stay home until the required medical information is provided. This will always depend on individual circumstances of the employee, which will be assessed in coming to this decision.

1.5. NON-CULPABLE OR INNOCENT ABSENTEEISM:

Non-culpable (or innocent) absenteeism refers to absences which result from illness, injury or disability. The University has a duty to accommodate to the point of undue hardship an employee's disability which might involve a prolonged illness. Where medical evidence establishes that the employee is unlikely to be capable of regular attendance in the foreseeable future, the employee's employment may be terminated for non-culpable or innocent absenteeism. Note this would not affect his or her ability to collect LTD benefits once in receipt of such benefits.

1.6. SUMMARY:

The University (i.e. the employee's manager, director, vice president and Director Human Resources), in collaboration with the employee and his/her medical specialist, will decide whether or not accommodation is required and what is reasonable in the particular circumstances. In cases involving bargaining unit staff, the Union may also be involved in the discussions and where appropriate all parties will attempt to reach an agreement on this issue. In all cases where the manager has reason to suspect an accommodation may be necessary, he/she should contact the Director Human Resources as soon as possible for guidance on this issue.

This policy and its supporting documents are to be used as a guideline since the process will be subject to the unique specifics of the individual situation and the advice received from Human Resources.

1.7. RETURN TO WORK:

Yukon University is committed to cooperate in returning injured/ill workers to safe and suitable employment.

Yukon University supports a return to work plan, including a gradual return to work, when applicable and where possible without Yukon University suffering undue hardship and will endeavour to contact injured/ill workers in a timely manner to jointly work on developing a Return-To-Work Plan. The plan will be based on the individual needs of each worker and will incorporate all relevant information. Any options identified for workers injured on the job will be assessed in accordance with the Yukon Workers' Compensation Health and Safety Board's Rehabilitation Policy CS-11. (*Find details on our website: www.wcb.yk.ca Click on "Acts, Policies & Regulations". Click on "Policies". Click on "Client Services". Open Policy CS-11).*)

If an employee is unable to return to their pre-injury position as a result of a work related injury/illness, the University will consider alternate options in accordance with the *Human Rights Act* and with the assistance of the YWCHSB.

All workers will be treated fairly and consistently and if injured/ill are expected to participate and cooperate in the Return-To-Work plan developed.

All supervisors/managers are expected to understand and value the importance of returning injured/ill workers to work and must provide assistance where appropriate.

This statement reflects the views of both management and employees of this organization and has been developed in full consultation with employee representatives.

This statement will be reviewed by the parties at least annually and may be updated or changed as required.

2. Governing Legislation and Relevant Documents

2.1. Board Governing Policies

Board Policies as outlined in the Board Policy Handbook
Yukon College Strategic Plan 2008-2013

2.2.

Collective Agreement between Yukon University Board of Governors and the Public
Service

HR 12.0 Harassment Policy

Yukon Human Rights Act

Yukon Workers' Compensation Health and Safety Board's Rehabilitation Policy CS-11

APPENDIX DP - #1

**YUKON UNIVERSITY
AUTHORIZATION TO RELEASE MEDICAL INFORMATION**

I, _____, hereby authorize the release of
(*print name*)

medical information by my physician, _____,
(*print name*)

at the following address and contact coordinates (Fax, Telephone and Email):

to the Director Human Resources, Yukon University (or Human Resources designate),

(*print name*)

and Yukon University's designated physician, _____.
(*print name*)

for the purpose of verifying my illness/injury and absence from work, medical prognosis (i.e. if or when I will be able to return to work), treatment (if medication or treatment impacts my abilities to perform job duties or attend work) and/or if any modified duties/hours are required upon my return to work.

Signature

Date