

SANTÉ MANITOUWADGE GENERAL HOSPITAL POLICY AND PROCEDURE MANUAL	
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Guiding Principles

- Santé Manitouswadge Hospital (“SMH”) is committed to providing a respectful environment that is free from discrimination.
- Accommodation is beneficial to the entire Hospital community in that it ensures that opportunities and services are accessible, and that employees are able to realize their full potential.
- Accommodation is provided to ensure, wherever feasible, that all members of the Hospital community have equal access to services and opportunities. Equality means that people are treated according to their needs in order to ensure equitable access.
- SMH will make every attempt to accommodate and can only deny an accommodation if it would cause undue hardship.
- The accommodation process is a collaborative one involving discussion with and flexibility of both the person(s) seeking accommodation and those responsible for considering the request.
- Each accommodation solution is unique and should be designed taking into account the needs of the particular individual being accommodated as well as the specific organizational needs.
- SMH takes a pro-active approach to employment and service accessibility which includes maintaining the multi-year accessibility plan to ensure that members of the Hospital community are not facing barriers in accessing employment opportunities, services, goods or facilities.

Purpose

- Outline the guiding principles to govern accommodation strategies and processes.
- Lay out the overarching framework and responsibilities for accommodation.
- Ensure consistency with other Santé Manitouswadge Policies and laws relating to human rights, accommodation and accessibility.
- Utilize in conjunction with the Accommodation Procedures which provides the specific steps in the accommodation process.

Scope

This Policy applies to: employees, physicians, students, volunteers, patients and visitors of the Hospital, including people seeking services, goods and employment.

Applicable Legislation and Documents

Ontario Human Rights Code (OHRC)

Accessibility for Ontarians with Disabilities Act (AODA)

Workplace Safety and Insurance Act (WSIA)

Definitions

Accommodation:

- Accommodation is the process of identifying needs based on human rights grounds and arranging for them to be met so that individuals have equal access to employment opportunities, services, goods and facilities.
- Accommodation reflects the duty of an employer or service provider to ensure that its rules, practices, behaviors, policies and physical structures do not create barriers that exclude individuals based on characteristics protected by human rights.
- To ensure equal access, the needs of human rights protected groups must be considered when developing rules etc. The concept of equality must be built into workplace and other standards in a way that promotes the integration and full participation of members of human rights protected groups. Then, where barriers still exist, individual accommodation solutions must be explored as necessary.

Systemic Discrimination

- Systemic discrimination happens when accommodation is not provided. If all members of the Hospital community are treated the same, this may result in exclusion based on religion, family status, disability and other protected human rights grounds.
- Systemic discrimination occurs where rules, facilities and practices appear neutral but have an adverse impact because they present barriers to some in accessing employment opportunities, services, goods and facilities.
- The following are examples of barriers that may constitute systemic discrimination if the accommodation request is not explored as per the accommodation procedures:
 - not providing ramps to enable persons in wheelchairs to access a building;
 - not allowing anyone to bring animals into a facility, including people who rely on service animals;
 - purchasing computer programs that are not compatible with accessible software because they were cheaper than programs that would be compatible;
 - requiring everyone to work Saturdays, meaning that employees whose religion forbids working on Saturdays are excluded from employment opportunities;
 - not allowing staff to temporarily change schedules once the schedule has been posted, even a single parent whose child is in the hospital or parent who has suddenly lost child care.

Employment Accommodation

- Ensures that an employee or prospective employee capable of performing the essential duties of a position is not excluded from employment opportunities due to characteristics protected by human rights.
- The human rights grounds that are protected by the Ontario Human Rights Code in relation to employment are: race, ancestry, place of origin, color, ethnic origin, citizenship, creed, sex, gender identity and gender expression, sexual orientation, age, record of offenses, marital status, family status or disability. Failure to accommodate constitutes discrimination.

accommodation policy

- Employment opportunities means all aspects of the employment relationship including: recruitment, selection, testing, hiring, promotion, performance evaluation, access to training and development, leaves of absences, redeployment, return to work and departures.
- Employment accommodation includes a “process” obligation to seriously consider a request for accommodation, including obtaining all necessary information and canvassing options in constructive dialogue with the key parties (employee, supervisor/manager, union representative, etc.).
- Employment accommodation also includes a “substantive” obligation to either arrange for appropriate accommodation or to prove that undue hardship has been met (see definition of *Undue Hardship*).

Bona-Fide Occupational Requirement (BFOR).

- A workplace rule, policy, procedure, requirement, qualification or factor, that:
 - was adopted for a purpose or goal that is rationally connected to the function being performed,
 - was adopted in good faith, in the belief that it is necessary to fulfill the purpose or goal, and
 - is reasonably necessary to accomplish its purpose or goal, and it is not possible to accommodate the person without undue hardship.
- Rules that do not pass the above three part-test and create barriers for individuals or groups based on human rights grounds will be considered discriminatory.
- Rules should be designed to be inclusive and should also accommodate individual differences to the point of undue hardship (see definition below section 7.7). This ensures that each person is assessed according to his or her own personal abilities, instead of being judged against presumed group characteristics or being subject to rules or standards that are not necessary.

Essential Duties

- A job may contain many elements, some of which are essential to doing the job, and others that are ideal or preferable, but not essential.
- If an individual cannot do the essential duties even with accommodation, the employer’s duty to accommodate may have been met.
- However, in large organizations such as the Hospital there is an expectation that the availability of other jobs will be explored.

Service Accommodation

- Ensures that users of services, goods and facilities do not face barriers at SMH based on the human rights characteristics.
- The human rights grounds that are protected by the Ontario Human Rights Code in relation to services, goods and facilities are: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identity and gender expression, sexual orientation, age, marital status, family status or disability.
- The failure to accommodate constitutes discrimination.
- Accommodation is to be provided up to undue hardship (see definition of undue hardship below).

See the Services, Goods and Facilities Accommodation Procedures page **8**.

Undue Hardship

accommodation policy

- Undue hardship is reached where cost will affect the viability of the organization or where unacceptable health or safety risks are created.
- To assess risk, the following must be considered: nature of the risk, severity of the risk, probability of the risk, and scope of the risk.
- The onus of proving hardship is on the hospital. Real data and evidence are required, not speculation.
- Considerations such as collective agreements and contractual arrangements, inconvenience to other employees or employee morale, business inconvenience, and customer preference are not sufficient to deny accommodation, but may be taken into account in choosing between accommodation options.

Accessibility:

- The *Accessibility for Ontarians with Disabilities Act, 2005* lays the framework for the development of province-wide mandatory standards on accessibility in all areas of daily life. The act requires employers and service providers to identify, remove and prevent barriers to accessibility for people with disabilities.
- The Accessibility Standards for Customer Service require amongst other things, that policies and practices must be in place to ensure that persons with disabilities are in an equal position with other persons to benefit from goods and services in a manner that respects their dignity and independence. Everyone at SMH involved in delivering goods and services must be trained in how to carry out their responsibilities in providing goods and services to persons with disabilities.

Disability

- The right to equal treatment without discrimination because of disability includes the right to equal treatment because a person has or has had a disability or is believed to have or to have had a disability
- Disability should be interpreted in broad terms. It includes both present and past conditions, and also the perception that a person is disabled.
- Disability can be temporary or permanent, physical or mental, visible or invisible, includes learning disabilities and addictions, and may include chronic and episodic illnesses.
- Discrimination may be based on the actual functional limitations of the employee or the employer's perceptions about the person's limitations.
- Disability includes an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997

Creed/Religion

- Legal decisions have established that for creed/religion to be protected by the Ontario Human Rights Code, as assessed on a case by case basis: ☐ There must be a system of beliefs or practices.
- The person seeking accommodation must sincerely believe and/or practice this system.
- Belief in God or gods is not required and spiritual beliefs and practices are protected as are new religious movements.
- Beliefs that incite hatred or contravene international human rights standards or criminal law are not protected.

Family Status

- Being in a parent and child relationship as either the parent or the child.

Sex

- Being male or female (Includes pregnancy and breastfeeding)

Gender Identity

- Gender identity (the gender that a person identifies as or how they perceive themselves and may be different than their birth-assigned sex) and gender expression (how a person communicates or 'expresses' their gender identity to others, often through behavior, physical appearance (clothes, etc.) or by emphasizing, deemphasizing or changing physical characteristics)

Responsibilities

Individuals Requiring Accommodation must:

- Communicate the need for accommodation to the appropriate management contact as soon as they are aware of the need:
- Patients should ask their health care provider
- Visitors should ask the service provider
- Employees should ask their supervisor or manager
- Physicians should ask their Chief
- Volunteers should ask their Supervisor
- Provide sufficient documentation when requested to support the request for accommodation.
- Cooperate and be flexible in seeking accommodation solutions.

Management and Supervisors - Employment Accommodation

- Refer all disability related accommodation requests to Staff Health and participate in planning.
- Seek advice about accommodation requests and always consult Human Rights & Health Equity prior to turning down an accommodation request.
- consult Human Resources for accommodation of unionized employees.
- Communicate the Hospital Accommodation Policy and Procedures to staff
- Invite staff, physicians and volunteers to bring forward requests for accommodation if needed
- Collect the information necessary to understand the nature of the request for accommodation while respecting privacy and confidentiality requirements. Do not look at any medical documents. Ask the employee to provide them directly to OHWS or forward them directly and confidentially to OHWS.
- Observe the procedural duty to involve all the necessary parties in canvassing options that balance the need for accommodation with SMH's operational requirements.
- Observe the substantive duty to either arrange for accommodation or demonstrate that undue hardship has been met.
- Document and keep confidential records of the entire accommodation process, including implementation and follow-up.
- Manage the workplace environment to ensure a respectful and supportive team culture is maintained to support the accommodation.
- Follow up to ensure that documentation to support the accommodation request is current and that the accommodation continues to be appropriate.

Management and Supervisors - Service Accommodation (most requests will come from patients)

- Collect the information necessary to understand the nature of the request for accommodation while respecting privacy and confidentiality requirements.

accommodation policy

- Seek advice about accommodation requests and always consult prior to turning down an accommodation request. Support is available through the AODA chair or Human Rights & Health Equity
- Observe the procedural duty to involve all the necessary parties in canvassing options that balance the need for accommodation with the Hospital's operational requirements.
- Observe the substantive duty to either arrange for accommodation or demonstrate that undue hardship has been met.
- Document and keep confidential records of the entire accommodation process, including implementation and follow-up.
- Where appropriate, follow up to ensure that documentation to support the accommodation request is current and that the accommodation continues to be appropriate.
- Visitors' request for accommodation may identify how the environment is not accessible. A broader systemic assessment should be done in addition to considering how to accommodate the individual.

Senior Management

- Ensure that the principles and requirements of this Policy and the related Procedures are communicated and understood within the Hospital community and that an active and supportive approach is taken towards accommodation issues.
- Monitor accommodation efforts, ensuring accurate statistics and records of accommodation processes are maintained.
- Analyze reports to ensure that members of the Hospital community are not facing barriers to accessing employment opportunities or services due to failure to accommodate.
- Ensure that funds are allocated as required for accommodation requirements.

Human Resources

- Provide advice to all members of the Hospital community regarding their rights and responsibilities on all types of accommodation including complaint mechanisms.
- Educate the Hospital community on their rights and responsibilities for accommodation.
- Address complaints of failure to accommodate.

Staff Health Nurse

- Provide advice to management and employees regarding their rights and responsibilities on disability accommodation.
- Manage the disability accommodation and return to work procedures.
- Participate in all steps of disability accommodation including identifying restrictions with the employee's health care provider and scheduling and chairing accommodation meetings
- Assess any health and safety risks associated with potential accommodation
- Provide individualized workplace emergency response information as required.
- Develop documented individual accommodation plans as required.
- Conduct accommodation plan reviews annually or as conditions change.

Human Resources

- Ensure that all HR policies, procedures and practices comply with the accommodation requirements set out by legislation and by this policy
- Implement AODA requirements for recruitment
- Ensure collective agreements are compliant with human rights law
- Identify available alternative jobs if required.

accommodation policy

- Negotiate letter of understanding with union where required to implement individual accommodation

Communications and Marketing

- Implement accessible communications requirements under the AODA

AODA committee

- Advise and educate Hospital on AODA requirements related to accommodation

Unions

- Take an active role as partners in the accommodation process
- Share joint responsibility with the employer to promote accommodation
- Support accommodation measures and consider flexibility of collective agreement provisions where required to implement individual accommodation.

No Reprisal • Anyone who requests accommodation under this Policy in good faith is protected from subject to reprisals of any form as a consequence of their request.

- Imposing negative sanctions on a person and/or subjecting them to negative treatment for requesting accommodation in good faith or having an accommodation arrangement in place constitutes a violation of the Accommodation Policy, the Human Rights & Health Equity Policy and the Ontario Human Rights Code.

10. Review • This policy will be reviewed yearly.

EMPLOYMENT ACCOMMODATION PROCEDURE

Purpose

The purpose of this procedure is to provide detailed process steps to ensure the Accommodation Policy is implemented appropriately.

Scope and Definitions

This procedure applies to all Hospital employees, physicians, students and volunteers. This Procedure is to be read in conjunction with the Accommodation Policy to ensure a consistent understanding of definitions and guiding principles.

Special Considerations

Confidentiality and Disclosure

- To protect the interests of the person seeking accommodation, all persons responsible for managing and supporting the request shall hold in strict confidence all personal information concerning the request for accommodation, including records of the request, contents of meetings, interviews and other relevant material.
- Personal information relating to the request shall only be released where expressly authorized by the person seeking accommodation; the information is required to manage the accommodation process, or required by law to do so.

Documentation, Record Keeping, Monitoring and Reporting

- Requests for workplace accommodation and all discussions and communication regarding these requests will be documented by the responsible supervisor or, if it is a disability accommodation, the Occupational Health, Wellness and Safety Department [“OHWS”].
- Records of workplace accommodation processes will be kept secure and confidential and will be kept separate from other Human Resources files.

Steps in Accommodation Process

The following procedure lays out general steps that apply to all requests for accommodation.

While it is understood that each accommodation solution is unique and that some may take longer than others to implement, the manager (and for disability accommodation, Staff Health) will respond in a timely manner to the request for accommodation.

The Human Rights & Health Equity Department (HR&HE) can provide advice to any party regarding accommodation issues, rights and obligations. The Staff Health Nurse can provide advice and assistance for disability related accommodation or when assessing health and safety impacts of any proposed accommodation

Identifying the Employment Accommodation Needs

Request from employee

- It is the obligation of the employee to request accommodation from their immediate supervisor as soon as the employee is aware of the need.
- The manager must identify whether the need is due to a human rights ground such as disability, religion, family status, pregnancy, etc.
- If the request is for medical/disability accommodation the supervisor or manager will immediately refer the request to Staff Health. Any medical documentation will be forwarded directly and confidentially to OHWS without being reviewed by the supervisor or manager.

accommodation policy

- Any accommodation involving a unionized employee will involve the bargaining agent and human resources representative

Request from prospective employee

- A prospective employee is not required to identify an accommodation need until after an offer of employment has been made.
- A job applicant may ask for accommodation in the selection process including testing and interviews by contacting Human Resources at 807-826-3251 ext. 206

Request from student

- Students who require accommodation should, where possible, raise the need with their educational institution prior to placement. The home institution will discuss the need and details with the Hospital supervisor prior to placement.

Request from volunteer

- Volunteers may request accommodation from the appropriate Supervisor at the outset of becoming a volunteer or at any time while volunteering for the Hospital.

Requests from physician

- A physician seeking accommodation will talk to their Chief as soon as they are aware of the need.

Need identified by Management or union

- In some cases an employee's supervisor or union representative may identify a possible need for accommodation.
- In such cases they will discuss the availability of accommodation with the employee. As this discussion may raise sensitive issues, they may wish to consult with HR&HE, Staff health, or HR prior to the discussion.

Verifying Medical Accommodation Requirements

Medical/Disability

- When an employee requests accommodation based on a medical condition, ailment or disability, the supervisor or manager will immediately refer the request to Staff Health. Staff Health Nurse will request and review medical documentation.
- Managers and supervisors should refrain from asking about any specific medical conditions or diagnoses. Any medical documentation will be forwarded directly and confidentially to Staff Health without being reviewed by the supervisor or manager.

Verifying Other Accommodation Requirements

Other grounds of accommodation

- With respect to other types of accommodations such as religion, family status, sex (including pregnancy), gender identity and gender expression, or ethnic origin, the employee should provide their accommodation needs with background information so that SMH has the necessary information to assess the request and arrange for appropriate accommodation.
- The manager may consult with the Human Resources to determine whether and how the request should be accommodated.
- The manager must consult Human Resources for accommodation of unionized employees.

accommodation policy

- As soon as possible, but no later than ten (10) business days after receiving the accommodation request, the responsible supervisor or manager will respond with a request for information or documentation required to consider the request.
- The person seeking accommodation must cooperate with all reasonable requests for information.
- The person seeking accommodation may also consult with the Human Resources regarding their rights to accommodation and the accommodation process

Exploring Accommodation Options

- As soon as possible, but no later than ten (10) days after receiving the additional documentation/information or, where none was requested, from the date of the accommodation request a meeting will be held to discuss the request.
 - The supervisor or manager responsible for the accommodation request should involve all relevant parties in the meeting to discuss possible accommodation options. This may include the person seeking accommodation, the responsible supervisor or manager, the union if the person seeking accommodation is a unionized employee, and other advisors as required (i.e. Human Resources, OHWS, etc.). If it is a medical accommodation this meeting will be formally organized by the OHWS department.
 - The objective of this meeting is to seek a feasible solution that respects the dignity of the person being accommodated but does not cause undue hardship to the Hospital.
 - The employee should cooperate and be flexible in seeking accommodation solutions.
 - Management should be open to creative solutions.
 - For current employees, accommodation solutions should be sought: First within the employee's current job and department
 - Then within the employee's department/portfolio
 - Then throughout the Hospital.
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- For all others, the accommodation should respect the dignity of the individual, be as close to the original opportunity as possible, have as little impact as possible on other staff

Implementation

- Once a solution is found, the responsible manager should oversee its implementation. This may entail working with employees, union representatives and other departments, while respecting, to the extent possible, the right to privacy of the person being accommodated.
- Managers must take action to prevent a negative environment, e.g. gossip, negative comments, undue pressure and exclusion, directed towards accommodated employees
- Implementation should be completed as soon as practical, taking into account that there may be a need to adjust facilities, change work processes or order special equipment.

Monitoring

- If an accommodation solution was found and implemented, the responsible supervisor or manager should monitor to ensure that the solution is satisfactory.
- Meet with the person being accommodated in 3-6 months to verify that the accommodation need is ongoing and that the accommodation continues to be adequate.
- Verify on an annual basis that the person being accommodated continues to require accommodation and that the accommodation continues to be appropriate.
- For medical/disability accommodation, OHWS will review the accommodation and may request current medical documentation.

Solution Not Found

If after canvassing all the options the responsible supervisor or manager is of the opinion that the request for accommodation cannot be met, they must:

- Review the request against operational needs to determine whether the test of Undue Hardship has been met
- Seek advice from the Human Resources when assessing undue hardship and prior to making a final determination.
- Identify next steps.
- Inform the employee of the determination.

Appeal process

- Non-compliance with this Procedure may constitute a violation of the Accommodation Policy, the Ontario Human Rights Code and/or the Accommodation for Ontarians with Disabilities Act.
- If any person covered by the Accommodation Policy believes that their access to employment opportunities has been prevented due to a failure to accommodate, or that the accommodation process has not been carried out in accordance with the Accommodation Policy or this Procedure, they may request a review by or file a complaint with the Human Resources.

SERVICES, GOODS AND FACILITIES ACCOMMODATION PROCEDURE

Purpose

The purpose of this procedure is to provide detailed process steps to ensure the Accommodation Policy is implemented appropriately.

Scope

This procedure applies to any person seeking to use the services, goods or facilities of Mount Sinai Hospital, including patients and visitors of the Hospital. This Procedure is to be read in conjunction with the Accommodation Policy to ensure a consistent understanding of definitions and guiding principles.

Special Considerations

Confidentiality and Disclosure

To protect the interests of the person seeking accommodation, information should only be disclosed on a need to know basis and in accordance with legislation and SMH policies and procedures, and regarding patient records.

Documentation, Record Keeping, Monitoring and Reporting

- Requests for patient accommodation and all discussions and communications regarding these requests will be documented by the care provider or responsible supervisor.
- Records of patient accommodation can be noted in the patient's chart.
- Records for other requests will be kept by the supervisor/manager in a secure location to maintain confidentiality.

Steps in Accommodation Process

While it is understood that each accommodation solution is unique and that some may take longer than others to implement, the person to whom the request for accommodation was made will respond in a timely manner to the request.

Identifying the Accommodation Need

- A patient or visitor should identify an accommodation need to any individual involved in the patient's care or to the service provider e.g. nutrition services, as applicable, as soon as the person is aware of the need.
- In some cases a care provider may identify a possible need for accommodation. In such cases, they should discuss the right to be accommodated with the patient and/or patient's family.
- Non-patients seeking to use goods, services and facilities should identify any accommodation need to the appropriate service provider

Verifying Nature of Accommodation - Obtaining necessary information/documentation

- The person seeking accommodation will be required to provide sufficient information which may include documentation to support the request for accommodation, so that the Hospital has the necessary information to assess the request and arrange for appropriate accommodation
- supporting documentation will not always be required. If the request is simple and/or the need is obvious, staff is encouraged to make any necessary adjustments to accommodate the individual.

Exploring Accommodation Options

- Once the necessary information is obtained, the care/service provider or supervisor should involve all relevant parties in a discussion of possible accommodation options. Parties may include the person seeking accommodation, his/her support person, the care provider(s), the care provider's supervisor or manager, and other advisors as required (i.e. AODA Chair).
- The objective of this meeting is to seek a feasible solution that respects the dignity of person being accommodated but does not cause undue hardship to the Hospital.

Implementation • Once a solution is found, the care provider or supervisor/manager should oversee its implementation as soon as practical and communicate the accommodation solution to all staff who will need to provide it

Monitoring

If an accommodation solution was found and implemented, the care provider or supervisor/manager should:

- Monitor to ensure that the solution is satisfactory; and
- Where appropriate, meet with the person being accommodated in 3-6 months to verify that the accommodation need is ongoing and that the accommodation continues to be adequate.

Solution Not Found

If after canvassing all the options the care/service provider or supervisor/manager is of the opinion that the request for accommodation cannot be met, they must:

- Review the request against operational needs to determine whether the test of Undue Hardship has been met.
- Seek advice from the Human Resources when assessing undue hardship and prior to making a final determination.
- Identify next steps.
- Inform the person seeking accommodation of the determination.

Appeal process

- Non-compliance with this is Procedure may constitute a violation of the Accommodation Policy, the Human Rights & Health Equity Policy, the Ontario Human Rights Code, and/or the Accommodation for Ontarians with Disabilities Act.
- If an individual seeking to use the services, goods or facilities of SMH believes that their access to the services, goods or facilities has been prevented due to a failure to accommodate, or that the accommodation process has not been carried out in accordance with the Accommodation Policy or this Procedure, they may request a review by or file a complaint with Human Resources.