

PROCEDURE FOR HR 03: Accommodations in Employment

1.0 Preamble

This procedure sets out how the policies in SKG's Policy HR 03 Accommodations in Employment shall be put into effect.

As required by the policy, this procedure:

- Sets out the roles and responsibilities of employees and job applicants and SKG with respect to accommodations;
- Sets out requirements for documentation to support a request for accommodations;
- Sets out requirements for individual accommodation plans; and
- Establishes requirements and procedures for resolution of concerns about accommodations.

2.0 Definitions

2.1 Definition of accommodations

For the purposes of this procedure, "accommodation" means an adaptation or adjustment made to support an employee with a disability in the performance of essential duties or requirements of the position. Such requirements must be reasonable and bona-fide in the circumstances.

Accommodation provided may include the following types of accommodation, as appropriate:

- Human support services such as sign language interpreters and readers,
- Technical aids and devices and adaptive technologies,
- Workstation and/or minor office modifications,
- Position redesign,
- Reassignments and alternative jobs,
- Flexible or alternative work schedules,
- Temporary rehabilitative assignments, and/or
- Retraining plans.

Other accommodations may be appropriate, depending on the needs of the employee.

2.2 Definition of disability

For the purposes of this policy, “disability” is defined as in the Ontario Humans Rights Code and AODA and means:

- Any degree of physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness and includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- A condition of mental impairment or a development disability;
- A learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- A mental disorder; or
- An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

2.3 Other definitions used in this policy

“AODA” means the Accessibility for Ontarians with Disabilities Act.

“Director of Human Resources” means the senior executive in SKG responsible for human resources policies and oversight of human resources operations (regardless of the title of that position).

“Employee” means a person who performs work for wages in any capacity for SKG, whether a full-time or part-time employee, and whether or not the employee has supervisory duties. Independent contractors and volunteers are excluded from this definition.

“SKG” means Shingwauk Kinoomaage Gamig.

“Regulated health professional” means an individual who is a member of the regulatory college recognized by the Ontario government for their profession, holds a certificate of registration from that college, and is acting within their approved scope of practice for the purposes of this policy.

3.0 Accommodations for employees

3.1 General guidelines

While SKG is responsible for all decisions with respect to accommodation, the accommodation process is the responsibility, shared by all parties, to engage in meaningful dialogue about accommodation, and to seek out expert assistance as needed. Everyone involved should co-operatively engage in the process, share information within the boundaries of confidentiality, and avail themselves of potential accommodation solutions. It is expected that the employee requiring accommodation will be involved in all levels of discussion to reach a solution.

Accommodation shall address current employment limitations only, unless future limitations are known and can reasonably be accommodated coincident with the current accommodation required.

Accommodation shall address the needs of the employee which directly relate to their position of employment.

The employee shall participate in all stages of the accommodation process together with their supervisor and the Director of Human Resources (or designate). Other participants in the process may include, as appropriate, health care professionals and insurers.

SKG shall assess accommodation on an individual basis with appropriate expertise from within and outside SKG, as necessary.

The Director of Human Resources or designate shall serve as a resource to the employee and/or supervisor in any case requiring the accommodation of an employee currently in the workplace, or an attempt to return an employee to the workplace as a result of an absence due to illness or accident.

3.2 Employee's request for accommodation

Employees seeking accommodation should make requests for accommodation in writing, whenever possible.

The accommodation request should indicate:

- The reason accommodation is required, including enough information to confirm the existence of a need for accommodation, and
- The specific needs of the employee, related to the definition of disability in the Ontario Human Rights Code and AODA.

A request by an employee for accommodation should be accompanied by documentation deemed satisfactory by SKG, outlining the specific restrictions arising from the disability. Requirements concerning documentation are addressed below.

All accommodation requests will be taken seriously. No person shall be penalized for making an accommodation request.

3.3 Documentation required to support of a request for accommodation

SKG shall request documentation from a regulated health professional in support of assessment of accommodation and development of an accommodation plan.

- The documentation shall relate the employee's disability or disabilities to the physical and mental demands of the position and will clearly identify the objectives of the accommodation.
- The documentation must list the limitation(s) and specific accommodation(s) that is/are required, as well as the rationale as to why the employee needs a specific accommodation such as software, hardware, equipment, and so forth.
- A specific diagnosis does not need to be identified.

SKG may request a second opinion on the specific accommodation(s) recommended by the employee's regulated health professional.

3.4 Short-term accommodation of disabilities in employment

If a disability prevents an employee from fulfilling the essential duties of their position for a temporary period, SKG shall endeavour to provide accommodation to the employee.

The objective of the short-term accommodation is the graduated return of an employee to full duties. A short-term accommodation typically includes modified hours and/or duties for a limited period of time and may include ergonomic interventions.

All requests for short-term accommodation shall be directed to the Director of Human Resources.

3.5 Long-term accommodation of disabilities in employment

SKG shall endeavour to provide long-term accommodations to enable an employee with a disability to fulfill the essential duties of the position. Long-term accommodation typically includes modification of a worksite, equipment, and/or duties.

All requests for long-term accommodation shall be directed to the Director of Human Resources.

If approved long-term accommodation cannot be provided immediately, a short-term accommodation plan may be developed as an interim measure.

3.6 Determination of accommodation and accommodation plan

The Director of Human Resources or designate shall meet with the employee to explain the work accommodation process and to obtain relevant information such as the employee's lived experience of disability and health information concerning limitations and medical restrictions, and consent for releases of information as required.

SKG may require an independent assessment from a regulated health practitioner with relevant expertise at any stage.

The Director of Human Resources or designate shall prepare an appropriate accommodation plan in consultation with the employee's supervisor and the employee.

The accommodation plan shall include:

- A statement of the employee's relevant limitations and needs, including any needed assessments and information from experts or specialists, bearing in mind the need to maintain the confidentiality of medical reports;
- All work-related restrictions related to the employee's disability or disabilities;
- Identification of the most appropriate accommodation short of undue hardship;
- The goals of the plan;
- A statement of annual goals, and specific steps to be taken to meet them;

- The timeframe associated with each accommodation measure; and
- Accountability for each accommodation measure and the overall accommodation plan.

An accommodation plan, once established, shall be amended by the Director of Human Resources as necessary to reflect changed circumstances.

- An employee may request review of an existing accommodation plan, where warranted by reasonable evidence of changes in the employee's need for accommodation.
- SKG may initiate a review of an existing accommodation plan at any time, where warranted by reasonable evidence of changes in the employee's need for accommodation.
- The Director of Human Resources shall ensure that an accommodation plan is reviewed annually, at a minimum.

The Director of Human Resources shall ensure that reviews of and amendments to accommodation plans are made in consultation with the employee and supervisor.

3.7 Confidentiality

Maintaining confidentiality for employees with disabilities is an important part of the duty to accommodate.

Personal information relating to an employee's disability shall be managed in a manner that is consistent with SKG's privacy policy and guidelines and applicable privacy legislation, where appropriate, and the OHRC guidelines concerning confidentiality.

Records relating to an employee's disability and accommodations shall be securely stored and separate from the employee's other employment records.

Personal information concerning an employee's disability shall not be released without the prior written consent of the individual.

In order to facilitate the accommodation process, it is expected that employees will provide information, including information from regulated health practitioners, where reasonably required, in order to implement accommodations.

Where appropriate, SKG may request confirmation or additional information from a qualified health care professional to get the needed information. It is expected that employees will cooperate in the accommodation process to ensure the SKG has appropriate access to all available information necessary to implement accommodation.

Where the accommodation process requires the release of confidential information to a third party (such as an external resource or health practitioner), the third party, and any person delegated by that third party, shall be required to ensure that confidentiality is protected, that the information obtained is kept in a secure location, and that it is used solely for the purpose that the release was required.

3.8 Roles and responsibilities

3.8.1 Employees

Employees requesting accommodation are responsible for:

- Advising their supervisor of the need for accommodation, to the best of their ability and in a timely manner, preferably in writing;
- Providing disability-related information regarding relevant restrictions or limitations, including information from regulated health professionals, as needed;
- Co-operating with all aspects of the accommodation process, within the requirements of the law, which may include obtaining follow-up documentation from a regulated health professional;
- Co-operating with any experts whose assistance is required;
- Participating in discussions regarding possible accommodation solutions;
- Fulfilling agreed upon responsibilities set out in the accommodation plan;
- Working with their supervisor to ensure that performance and job standards are feasible and appropriate based on the disability and the bona-fide requirements of the position;
- Advising their supervisor immediately of any change in circumstance that affects the accommodation plan; and
- Meeting the bona fide and essential requirements of their employment position once accommodations are provided.

3.8.2 Supervisors

Supervisors are responsible for:

- Determining the essential requirements of an employment position;
- Accepting the employee's request for accommodation in good faith;
- Obtaining opinion or advice in consultation with the Director of Human Resources, where needed;
- Working with the Director of Human Resources in the development of appropriate accommodation for applicants and employees in accordance with the guidelines and procedures of this policy;
- Respecting an employee's right to privacy and confidentiality, and only sharing information regarding the employee's accommodation request as needed with those directly involved in the accommodation process;
- Fulfilling their responsibilities under accommodation plans;

- Implementing and overseeing accommodations and facilitating the integration of the employee or prospective employee being accommodated;
- Monitoring the success of individual accommodation plans, and promptly addressing any deficiencies or any relevant changes in the workplace or the employee's needs;
- Taking into account the accessibility needs of employees with disabilities, as well as individual accommodation plans, when implementing performance management processes;
- Taking into account the accessibility needs of employees with disabilities as well as any individual accommodation plans, when providing career development and advancement;
- Providing education and support to other employees concerning accommodation issues if required, while ensuring that appropriate confidentiality is maintained;
- Ensuring that the work environment is welcoming and that all employees treat one another with respect and take immediate remedial action in situations where bullying and harassment are, or may be, taking place; and
- Ensuring that the needs of persons with disabilities are addressed in the recruitment and selection process.

3.8.3 Director of Human Resources

The Director of Human Resources is responsible for:

- Advising job applicants about SKG policies and procedures concerning accommodations for applicants, and the mechanisms available for them for pursuing accommodations;
- Advising employees about SKG's policies and procedures concerning accommodations for employees, and the mechanisms available for them for pursuing accommodations;
- Ensuring that new employees receive this information as soon as practicable after they begin employment;
- Ensuring that all employees are informed of any change to SKG's policies or processes concerning accommodations;
- Providing guidance and training support to supervisors about accommodations;
- Developing an appropriate accommodation plan for applicants and employees with disabilities according to SKG's policy and this procedure;
- Fulfilling the Director of Human Resource's responsibilities under all accommodation plans;
- Maintaining records of individual accommodation plans; and
- Maintaining the security and confidentiality of records relating to employees' disabilities and accommodations.

4.0 Accommodations for job applicants

SKG shall accommodate job applicants with a disability during the hiring process in accordance with OHRC guidelines and other applicable legislation.

Job postings shall include a statement indicating that accommodation is available for potential applicants with disabilities.

A job posting shall be made available in an accessible format upon request.

Job applicants are responsible for advising SKG in advance of any disability accommodations that may be required during the selection process.

If a selected applicant requests an accommodation, the Director of Human Resources shall consult with the applicant and provide or arrange for the provision of a suitable accommodation in a manner that takes into account the applicant's accessibility needs due to disability.

Accommodation may be provided to an applicant at any time during the hiring process.

Applicants may request accommodation at any time during the hiring process.

Accommodation shall relate directly to the hiring process.

Accommodation for job applicants shall be coordinated by the Director of Human Resources or a designate.

The Director of Human Resources and the supervisor responsible for a job search shall respect an applicant's right to privacy and confidentiality and shall only share information regarding the applicant's accommodation request as needed with those directly involved in the accommodation process.

5.0 Resolving concerns about employment accommodations

Employees should discuss any concerns regarding the accommodation plan and/or problems with implementation of accommodations with their supervisor.

If the employee does not agree with the accommodation plan or its implementation and their concerns are not resolved through discussion with the supervisor, they may request a review of the accommodation plan or the decision not to provide the requested accommodation.

The request for review must be initiated through a formal written request to the Director of Human Resources. The written request must include the reasons for the request for review.

The Director of Human Resources shall review the employee's request.

The Director of Human Resources shall determine a resolution of the review in a timely manner.

If the employee does not agree with the decision of the Director of Human Resources, the employee may appeal the decision to SKG's board of governors.

The board may establish an ad hoc committee with responsibility to consider the employee's appeal or refer the matter to a standing committee of the board.

An appeal committee established by the board shall include at least three members appointed to the board.

The board or the committee of the board:

- May have access to relevant information concerning the employee's request for accommodation and information provided to SKG concerning the employee's functional limitations.
- May meet with the employee, an advocate for the employee if the employee so chooses, supervisor, and/or Director of Human Resources.
- May seek and consider advice from experts external to SKG (without disclosure of personal information unless with the consent of the employee).
- Shall consider:
 - The employee's reasons for the appeal;
 - Perspective and advice of the supervisor and Director of Human Resources;
 - The essential requirements of the employment position;
 - Information concerning the employee's functional limitations and accommodations that may be required;
 - Information from SKG concerning undue hardship, if applicable; and
 - Other appropriate and relevant matters at the discretion of the board or its committee.
- Shall render a decision.

The decision of the board or its committee shall be final.

6.0 Related Policies, Procedures & Documents

HR 03 Accommodations in Employment

OP 01 Accessibility

HR 04 Safe and Healthy Workplace and its associated procedure

These and other SKG human resources policies and procedures may be found [here](#).

7.0 Responsible Officer

Director of Human Resources

8.0 Version history

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SKG gratefully acknowledges that this procedure has been patterned on policies and procedures of OCAD University, Trent University, and Nipissing University and the Ontario Human Rights Commission's *A policy primer: Guide to developing human rights policies and procedures*.