



## PROCEDURE

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Title:	<b>ACCOMMODATION PROCEDURE</b>	Procedure No.:1011a Effective Date:2021 June 7
Department:	Organizational Support Services – Human Resources	
References:	Ontario Human Rights Code <a href="http://www.ohrc.on.ca/en/ontario-human-rights-code">http://www.ohrc.on.ca/en/ontario-human-rights-code</a> Ontario Human Rights Commission, "Policy and Guidelines on Disability and the Duty to Accommodate". <a href="http://www.ohrc.on.ca/pt/node/2461">http://www.ohrc.on.ca/pt/node/2461</a> TVDSB Guidelines for the Accommodation of Gender Diverse and Trans Students and Staff Religious and Creed-Based Accommodation of Staff Procedure 2022b Harassment Policy and Procedure 3004 and 3004a Accommodation Policy NEW Applicable Collective Agreements and Employment Terms	

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It is the policy of the board to provide an environment that is inclusive and that is free of barriers based on age, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and gender identity), sexual orientation, record of offences, marital status, family status, and disability. TVDSB commits to providing accommodation for needs related to the grounds of the Ontario Human Rights Code (Code), unless to do so would cause undue hardship. Accommodation will be provided in accordance with the principles of dignity, individualization, and inclusion. TVDSB will work cooperatively, and in a spirit of respect, with all partners in the accommodation process.

### 1.0 Requests for Accommodation

- 1.1 Accommodation requests should, whenever possible, be made in writing. The accommodation request should indicate:
  - The Ontario Human Rights Code (Code) ground with respect to which accommodation is being requested;
  - The reason why accommodation is required, including enough information to confirm the existence of a need for accommodation; and
  - The specific needs related to the Code ground.
- 1.2 All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request.
- 1.3 Accommodations related to disability and all medical documentation will be administered and reviewed by the Abilities and Wellness department. Accommodations related to all other Code grounds will be administered by the Human Resources Manager/designate and/or the direct Supervisor, in accordance with this procedure.

Administered by:	Organizational Support Services – Human Resources
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Amendment Date(s):
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## 2.0 Religious/Creed-Based Accommodations

Religious and creed-based accommodations will be established and implemented in accordance with the TVDSB Religious and Creed-Based Accommodation of Staff Procedure 2022b.

## 3.0 Documentation

- 3.1 All parties to the accommodation process must share information about accommodation needs and potential solutions. It may in some cases be necessary to obtain expert opinions or seek clarification to clarify the accommodation needs and/or to assist the Board in determining their ability to meet such requests.
- 3.2 The Administrator/Supervisor, Human Resources Manager/designate, or Abilities and Wellness Department may require further information related to the accommodation request, in the following circumstances:
  - Where the accommodation request does not clearly indicate a need related to a Code ground;
  - Where further information related to the employee's limitations or restrictions is required in order to determine an appropriate accommodation;
  - Wherein the request for accommodation does not allow for the employee to discharge the essential duties of the position
- 3.3 Where expert assistance is necessary to identify accommodation needs or potential solutions, the employee is required to cooperate in obtaining that expert advice. Any costs associated with obtaining such expert advice will be borne by TVDSB. This process will follow any applicable Collective Agreement language.
- 3.4 All documentation sent by Abilities and Wellness Services to the employee's attending treating practitioner will be copied to the employee.
- 3.5 Failure to respond to requests for information by workplace parties to the accommodation process may delay or prevent the accommodation process from occurring until such a time that appropriate documentation is received.
- 3.6 The Manager, Human Resources and/or Abilities and Wellness department will maintain information related to:
  - Any medical accommodation request;
  - Any documentation provided by the accommodation seeker or by experts;
  - Notes from any meetings;
  - Any accommodation alternatives explored; and
  - Any accommodations provided.

This information will be maintained in a secure location, separate from the accommodation seeker's personnel file, and will be shared only with those persons who need the information. TVDSB will maintain the confidentiality of medical information related to an accommodation request. TVDSB will only disclose the required information to the appropriate workplace parties that require the information to enact or monitor the accommodation which may include but is not limited to, Supervisors, Human Resources, Payroll, Union Representatives.

All medical documentation and receipts can be submitted to "Medical Note" [medicalnote@tvdsb.ca](mailto:medicalnote@tvdsb.ca)

- 3.7 Permanent accommodations will be reviewed at least annually or as required due to changes in individual circumstances. Updated documentation may be required to support the continuation of an accommodation.

### 4.0 Accommodation Planning

- 4.1 The accommodation process is a shared responsibility. Accommodation requests will be dealt with promptly. If necessary and/or available, an interim accommodation will be provided while long-term solutions are explored.

- 4.2 As applicable, the Manager, Human Resources/designate, Abilities and Wellness Specialist, Administrator/Supervisor, Union/Association Representative ("the Accommodation Team") and the person requesting accommodation related to a Code ground, and any other necessary experts will work together cooperatively to develop an "Accommodation Plan" for the individual.

The Accommodation Plan, when agreed on, will be put in writing, and distributed to all relevant parties. An accommodation plan may include, for example, the following:

- A statement of the accommodation seeker's relevant limitations/restrictions and needs, including any necessary assessments and information from experts or specialists, bearing in mind the need to maintain the confidentiality of medical reports;
- Arrangements for necessary assessments by experts;
- Identification of the most appropriate accommodation short of undue hardship;
- A statement of annual goals, and specific steps to be taken to meet them;
- Clear timelines for the provision of identified accommodations;
- Criteria for determining the success of the accommodation plan, together with a mechanism for review and re-assessment of the accommodation plan as necessary

### 5.0 Appropriate Accommodations

The aim of accommodation is to remove barriers and ensure equality. Accommodations will be developed on an individual basis based on the nature of the code ground and/or based on physical and cognitive restrictions and abilities. Appropriate accommodations may include the following examples:

- Workstation adjustments
- Job redesign (within the framework of meeting the position's essential duties)
- Modifications to organizational policies and practices
- Technical aids
- Human support
- Provisions of materials in alternative formats
- Building modifications
- Changes to work uniforms
- Counselling and referral services
- Temporary or permanent alternative work
- Changes to scheduling or hours of work
- Changes to work location
- Modifications of performance standards

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- Changes to positions or employee groups
- Leaves of absence

### 6.0 Monitoring Accommodations

The Administrator/Supervisor and the person receiving accommodation shall monitor the success of the Accommodation Plan and shall promptly address any deficiencies or any relevant changes in the workplace or the employee's needs. Any issues that cannot be resolved by the Employee and the Supervisor will be reported to Abilities and Wellness and the Human Resources Manager for review. The workplace parties will work through issues together.

### 7.0 Essential Duties

Essential duties are the components of a job that a person must be able to perform. Performing essential duties of a job is a requirement for an accommodation in a position. If an employee cannot perform the essential duties of the position, to which they were hired with accommodation, alternate work and/or training will be considered as detailed in 8.3.4

### 8.0 Medical or Disability-related Accommodation

#### 8.1 Modified Work

Modified work is any job or combination of tasks or hours of work that an employee, who has cognitive or physical restrictions, may perform as part of an accommodation without risk of re-injury to themselves or others. The work must be productive and sustainable, within the employee's capabilities, and the result of the work must add value. The common types of work that are usually considered for the Modified Work Program based on cognitive or physical restrictions are as follows:

- Pre-injury Work Job held before injury/illness with no restrictions.
- Alternative Work. These are comparable jobs which involve much that is similar to the pre-injury job in terms of the function or physical requirements and are jobs which can be performed with some accommodation through changes to hours, tasks, location, or equipment.
- Other Suitable Work. These are jobs that are within the requisite knowledge, skill, abilities and qualifications and pose no health or safety risks to themselves or others. Such jobs may, however, be quite different from the pre-injury job. The employer and the applicable Union/Association will assist the employee in assuming the new responsibilities.

#### 8.2 Temporary Restrictions

8.2.1 A temporary accommodation will be implemented for an employee where it is determined that this can be done safely. A temporary accommodation may be after an absence or while an employee is still actively working. A review will be done to determine the ability to safely accommodate the employee.

8.2.2 A temporary accommodation program must include a time frame for progression to the pre-absence/illness/injury status. The temporary restrictions of the individual employee must be adhered to without aggravating the existing condition or causing another injury to this employee or another employee. All employees must be able to receive and understand instructions, as well as recognize and communicate health and safety concerns.

The length of the program may be up to eight (8) weeks subject to an extension of up to four (4) weeks at the recommendation of the Health Care Provider/WSIB and reviewed by the Abilities and Wellness Specialist. The Employee must be able to demonstrate ongoing

progression of hours and/or essential duties of the position otherwise the return to work program may be stopped or adjusted in length or requirements. Updated medical documentation may be required to support any changes. Individual timelines for RTW may vary as determined by medical documentation.

8.2.3 If an unforeseen accident / illness or a deterioration in condition or new medical information occurs during the program and impedes progress as previously determined, it will be discontinued and may be re-evaluated again at a future date.

### 8.3 **Permanent Restrictions**

TVDSB is committed to providing meaningful, productive and sustainable work for permanently restricted employees without aggravating the existing condition or causing another injury to this employee or another employee. The employee must be able to perform the essential duties of the pre-injury/illness position (as posted). Should an employee apply to a new position and is the successful applicant, the responsibility is on the employee to notify the new supervisor of any permanent limitations and accommodation needs. If the Supervisor is unable to accommodate a review will be done with Human Resources and Abilities and Wellness to determine any next steps required.

8.3.1 An employee with permanent restrictions will meet with the Accommodation Team to discuss accommodation, if required. The restrictions of the individual employee must be understood and respected by all in the workplace and adhered to by the employee. The health and safety of all employees must be maintained. All employees must be able to receive and understand instructions and recognize and communicate health and safety concerns.

8.3.2 It may be necessary to modify the pre-injury job on a permanent basis to accommodate the employee's physical restrictions.

8.3.3 If an employee cannot perform the essential duties of the position, to which they were hired with accommodation, alternate work and/or training will be considered as detailed in 8.3.4

8.3.4 The Accommodation Team will attempt to accommodate employees in the following order:

- in the current position
- in the current classification
- in another classification with equivalent hours/rate of pay, but for which the employee possesses the requisite knowledge, skill, abilities and qualifications

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- in another classification which does not have equivalent hours/rate or pay, but for which the employee possesses the requisite knowledge, skill, abilities and qualifications
- in a position outside the bargaining unit/association, but within another bargaining unit/association for which the employee possesses the requisite knowledge, skill, abilities and qualifications

### 8.4 Absences

8.4.1 The absent employee must maintain regular contact with the Administrator/Supervisor and Abilities and Wellness Specialist while they are not at work in line with applicable employment terms and Collective Agreement requirements. In the case of occupational absences, the employee must report absence immediately. In the case of non-occupational absences, the employee must provide a medical documentation as required in their applicable Collective Agreement or Employment Terms or as requested by Thames Valley District School Board, to the Abilities and Wellness Specialist.

8.4.2 The Administrator/Supervisor will consult with the Abilities and Wellness Specialist if there are questions or concerns or they require any clarification as to the employee absence.

8.4.3 The Abilities and Wellness Specialist must be informed of all medical visits and provided with all medical documentation as required.

### 8.5 Early and Safe Return to Work (RTW) Procedures

8.5.1 As soon as the employee can return to work performing modified or restricted duties, and prior to returning, they must contact the Abilities and Wellness Specialist. The employee or attending health care practitioner must send a TVDSB medical document or WSIB Functional Abilities Form (provided by the Abilities and Wellness Specialist) listing the limitations or restrictions directly to the Abilities and Wellness Specialist. The Abilities and Wellness Specialist will establish whether an employee has medical documentation to support a return to work and will communicate with all workplace parties.

8.5.2 The Abilities and Wellness Specialist will contact the Administrator/Supervisor, union representative and any other appropriate resources to arrange a return to work meeting as required. A meeting may be called by the employee and the Union

If a meeting is required, the Abilities and Wellness Specialist will meet with the Administrator/Supervisor, employee, and union representative to develop an individual Modified Work Plan in accordance with the functional abilities of the employee. The Abilities and Wellness Specialist or designate will contact the attending health care practitioner if the employee's restrictions need to be clarified. The employee is expected to immediately communicate any concern to their Administrator/Supervisor so that potential problems can be resolved.

8.5.3 A Health and Safety Specialist may be requested to complete a workplace assessment of the work site and make written recommendations. This may be done virtually or in person.

8.5.4 The employee may be requested to complete a daily log which must be submitted weekly to the Abilities and Wellness Specialist and/or appropriate Administrator/Supervisor, if applicable to the specific employee.

8.5.5 If changes are required to the Modified Work Plan, due to a lessening or worsening of the employee's disability or limitations or for any other reason, the employee will notify the Administrator/Supervisor or Abilities and Wellness Specialist, and the union representative, if applicable.

8.5.6 Employees who are relocated on a permanent basis to another bargaining unit/association within the Board due to injury/illness will be subject to the terms of the appropriate collective agreement.

8.5.7 Specific elements of this program may change from time to time to accommodate changing policies or legislation. Notification will be provided to all workplace parties.

8.5.8 If an employee declines a job for which he or she is deemed to be medically fit based on cognitive or physical restrictions, the right to benefits, through Workplace Safety and Insurance Board (W.S.I.B.) and/or the TVDSB Disability Plans, will be reviewed and may cease based on a case by case basis.

8.5.9 If applicable to the employee group. Vacation will not be routinely approved. In extenuating circumstances (vacations booked in advance of the injury/illness date) vacation may be granted and vacation will be deducted as if the employee were at full hours. An employee will return to the RTW program at hours of work consistent with an uninterrupted program.

8.5.10 In addition, the following will apply:

- If applicable to the employee group. Employees with restricted hours will not be eligible for overtime.
- Employees on a GRTW program with temporary restrictions / precautions will not be eligible for overtime.
- Employees, with permanent restrictions / precautions will only accept work within those restrictions / precautions and only apply for positions which meet their restrictions.
- The employee will make every effort to schedule health care appointments during off duty hours.
- Specific employment Terms and Conditions and/or applicable Collective Agreement language will be adhered to wherever practicable in assessing individual accommodation requirements, however, will not limit or restrict TVDSB's legal obligation regarding the duty to accommodate.

## **9.0 Roles and Responsibilities**

### **9.1 The Administrator/Supervisor will:**

- Where an employee is absent due to illness or injury, ensure the employee's absence is verified in TVARRIS;
- Where applicable, advise the Abilities and Wellness Specialist immediately of an employee's occupational absence;
- Where applicable, advise the Abilities and Wellness Specialist of an employee's non-occupational absence based on the applicable employee group requirements;
- Update the Abilities and Wellness Specialist regularly while an employee is absent;

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- If the employee contacts the Administrator/Supervisor with an update, notify the Abilities and Wellness Specialist with any information;
- Co-operate and participate in the Early and Safe Return to Work Program;
- Identify and determine if suitable work is available in pre-injury/accident assignment to ensure assigned tasks in keeping with limitations;
- Maintain frequent and regular contact with the employee to evaluate Early and Safe Return to Work program;
- Notify the Abilities and Wellness Specialist should any issues with respect to modified duties arise;
- Ensure that employees are appropriately trained in the completion of their job duties;
- Monitor the employee's work conditions to prevent re-injury.

### 9.2 All employees will:

- Based on Specific employment terms and Collective Agreement requirements, notify their immediate supervisor of any injury or absence due to illness and maintain regular contact with their supervisor;
- After obtaining the initial treatment, contact their supervisor and return the Functional Abilities Form/medical documentation to the Abilities and Wellness Specialist;
- Ensure health care professionals complete medical forms requested by Abilities and Wellness Specialist;
- Participate fully in the accommodation/return to work program processes

#### 9.2.1 An employee participating in the Early and Safe Return to Work Program will:

- Seek early treatment from the health care provider and follow the rehabilitation schedule so that a return to regular work can be achieved as soon as medically possible;
- Co-operate and participate in the Early and Safe Return to Work Program and accept modified work;
- Work within the medical restrictions;
- Communicate any concerns to their supervisor and union representative, if applicable, so that potential problems may be resolved early. If no resolution by supervisor, communicate concerns to Abilities and Wellness Specialist.

### 9.3 Union Representatives will:

- Provide support, encouragement, education and direction to the employee, where appropriate;
- Attend Return to Work Meetings including any follow up meetings scheduled;
- Work collaboratively with all members of the Individual Accommodation Team;
- Review employee's progress during the modified work plan;
- Provide continuous and ongoing education to members about their obligation to co-operate and participate in the Early and Safe Return to Work program;
- Provide ongoing education to members about their obligation to support employees participating in a modified work plan.

## 10.0 Service Animals

- 10.1 Employee requests for accommodation and all documentation related to the use of a service animal will be sent in writing to Abilities and Wellness Services.

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- 10.2 The definition of a service animal and related requirements are identified under O. Reg. 191/11: INTEGRATED ACCESSIBILITY STANDARDS under *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11*:

An animal is a service animal for a person with a disability if,

- (a) the animal can be readily identified as one that is being used by the person for reasons relating to the person's disability, as a result of visual indicators such as the vest or harness worn by the animal; or
- (b) the person provides documentation from one of the following regulated health professionals confirming that the person requires the animal for reasons relating to the disability:
  - (i) A member of the College of Audiologists and Speech-Language Pathologists of Ontario.
  - (ii) A member of the College of Chiropractors of Ontario.
  - (iii) A member of the College of Nurses of Ontario.
  - (iv) A member of the College of Occupational Therapists of Ontario.
  - (v) A member of the College of Optometrists of Ontario.
  - (vi) A member of the College of Physicians and Surgeons of Ontario.
  - (vii) A member of the College of Physiotherapists of Ontario.
  - (viii) A member of the College of Psychologists of Ontario.
  - (ix) A member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario. O. Reg. 165/16, s. 16.

- 10.3 A determination for accommodation of a service animal will be made based on appropriate documentation and identified requirements.

## 11.0 Undue Hardship

- 11.1 Accommodation will be provided to the point of undue hardship, as defined by the Ontario Human Rights Commission's Policy and Guidelines on Disability and the Duty to Accommodate. A determination regarding undue hardship will be based on an assessment of costs, outside sources of funding, and health and safety. It will be based on objective evidence.
- 11.2 A determination that an accommodation will create undue hardship may only be made by the Superintendent, Human Resources or designate. Where a determination is made that an accommodation would create undue hardship, the person requesting accommodation will be given written notice, including the reasons for the decision and the objective evidence relied upon. Where a determination has been made that an accommodation would cause undue hardship, TVDSB will proceed to implement the next best accommodation short of undue hardship if applicable and will review all available options.