

**CUPE 917 AND CUPE 951** 

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## MEMO

Date: August 26, 2014

To:

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#### Members of the Joint Committee on Return to Work and Accommodation:

# For CUPE 917 David Mitchell, 17 17 Marina Baginski, 17 17 Rhonda Rose, 17 17 For CUPE 951 Arden Little, 7 51 Pat Shade, 7 51 Laurie Whyte, 7 51 For University of Victoria Rebecca Lumley Cathy Boraston, Tine Lathouwers, <sub>¥</sub> David Morgan, Kathryn MacLeod Chris Smith, Manager, Grace Wong Sneddon, Ex-O cio Participants: Kane Kilbey, Joel Bentley, Byron Spiers, 7 17 KaE 951e

## **OVERVIEW**

**Employment Accommodation Guidelines For Employees with a Disability** 

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### UNIVERSITY POLICY HR6115 -

#### EMPLOYMENT ACCOMMODATION –

1110

University Policy No.: HR6115 Classi cation: Human Resources

Approving Authority: Board of Governors

E ective Date: June/04 Supersedes: November/00 Last Editorial Change: June 2004

Mandated Review:

#### PURPOSE

The University has a legal duty to provide accommodation for both employees and job applicants with regard to matters that are governed by the BC Human Rights Code, unless it would cause undue hardship for the University to do so.

#### 2. POLICY STATEMENT

The University will work to achieve a workplace free of barriers by providing accommodation as needed, in a manner which ensures that everyone is dealt with fairly and equitably, and respects the needs of all parties.

#### 3. IMPLEMENTATION

- 3.1. Implementation of this policy will be guided by the following principles:
  - 3.3.1. The University is committed to the principles and spirit of employment equity and the provisions of the BC Human Rights Code.
  - 3.3.2. The process for considering requests for accommodation will be in accordance with the provisions of any Collective Agreement or Framework Agreement that is applicable to the employee. For those employees not covered by a Collective Agreement or Framework Agreement, this policy will guide the process for considering such requests.
  - 3.3.3. All parties work together to facilitate accommodation.
  - 3.3.4. Information is shared on a need-to-know basis while ensuring that the privacy of individuals is protected.
  - 3.3.5. The individual is included and involved in the discussion and process.
  - 3.3.6. Decisions are based on present conditions.
  - 3.3.7. Every case is dealt with fairly and equitably and on an individual basis.
- 3.2. In the context of this policy, accommodation, subject to the limitation of causing undue hardship to the University means a measure to assist an individual, who has demonstrated a need for such a measure, in performing or fulfilling the substantive duties of a job;
  - 3.2.1. Accommodation is based on individual circumstances and can include, but is not limited to technical aids, job redesign, workplace modification, work scheduling, evaluation timelines, employment policy and practice modification.

- 3.3. In the context of this policy, undue hardship must be decided in the circumstances of each case, but the following should be considered:
  - 3.3.1. when there is a risk to the safety of others or a substantial risk of personal injury to the employee with a disability.
  - 3.3.2. when financial cost is such that a program or service would cease to exist due to the financial burden of the accommodation, or other circumstances where it would be unreasonable to expect the University to bear the costs of accommodation.
  - 3.3.3. when accommodation alternatives would result in lowering performance substantive job requirements being unmet.
  - 3.3.4. when the accommodation would be unduly disruptive to a collective agreement or cause substantial detrimental effect on other employees.
- 3.4. When an employee with a disability is unable to perform job duties because of a disability and requires accommodation, othe act ons2adatil

## **CUPE 951**



### **ROLES & RESPONSIBILITIES**

#### OF THE INDIVIDUAL

- § To communicate at the earliest possible opportunity and in sufficient detail, through appropriate channels (see definition), their need for accommodation
- § To cooperate and actively participate in finding a solution and in implementing accommodation
- § To provide necessary documentation as required for the initial accommodation and to support their on-going need for accommodation, as required
- § To identify and communicate, through the appropriate channels, problems with the accommodation
- §To perform the substantive duties of the position within the context of the accommodation
- § To cooperate with third party providers (e.g. WorkSafeBC, ICBC, LTD)

#### OF THE SUPERVISOR

- § To work with all other parties to find and implement appropriate accommodation.
- § To identify the substantive duties of the position
- § To identify the physical and mental requirements of all duties within their unit
- § To communicate promptly with the employee about the need for accommodation
- § To follow-up and deal promptly with the request for accommodation
- § To involve appropriate parties as necessary
- § To identify and communicate, through the appropriate channels, problems with the accommodation
- § To be fair and equitable to the employee and co-workers
- § To inform co-workers and other department members on a need-to-know basis with consult of the employee

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#### - OF HUMAN RESOURCES

§To provide consultation, guidance, training and coaching in the areas of return to work, stay at work and accommodation

§ To develop and implement best practices consistent with University policy and procedures, collective agreements, human rights legislation and case law

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#### OF CO-WORKERS

- § To attend training and information sessions about the accommodation
- §To cooperate and participate, as required, in the accommodation
- § To contribute ideas and constructive feedback about the accommodation
- § To identify and communicate promptly to the supervisor problems with the accommodation

#### OF EQUITY AND HUMAN RIGHTS

- §To maintain a University-wide perspective
- §To ensure that employees are being treated equitably and fairly
- § To maintain the integrity of the policy and process
- § To be available for consultation by all parties regarding the equity and human rights perspective

#### OF SENIOR MANAGEMENT

- § To support the integrity of the principles and process
- § To create a supportive culture that is committed to the principles and spirit of employment equity and recognizes the value and importance of accommodation
- § To ensure the necessary structure and resources are in place to support the process
- § To oversee the approval and endorsement of the guidelines and work of the Joint Committee on Return to Work and Accommodation

#### OF THE JOINT COMMITTEE ON RETURN TO WORK & ACCOMMODATION

- § To consult extensively and make recommendations to the University regarding the development and maintenance of a consistent Return to Work and Accommodation Process which enables employees with disabilities to maintain their employment at the University
- §To review guidelines on a regular, mutually agreed and as needed basis
- § To take recommended changes to policy and guidelines to the University Executive Council and CUPE Executive Boards for endorsement
- §To implement endorsed changes
- §To develop and recommend communication and education strategies
- § To ensure compatibility of the process with any collective agreements

## THE ACCOMMODATION PROCESS

PROCESS	DETAILS
<ol> <li>When an employee requires accommodation, the employee notifies the immediate supervisor and Union RTW &amp; Accommodation Officer as soon as possible and establishes the need for accommodation. Prior to making a formal request for accommodation, the employee and manager/supervisor may resolve the matter at the departmental level.</li> </ol>	

PROCESS	DETAILS
A3. The supervisor documents the accommodation in a Simple Accommodation Plan. (See,	

PROCESS DETAILS

#### B. IMPLEMENTING COMPLICATED ACCOMMODATION WITHIN THE WORK UNIT

Accommodation becomes more complicated when:

- a. the functional impact of the disability is unclear, or
- b. additional documentation is required, or
- c. accommodation cannot be effected by the appropriate supervisor, or
- d. there is a disagreement as to the appropriate accommodation, or
- e. co-workers (or other University employees, students or University programs) may be unreasonably adversely affected, or
- f. there are high costs involved, or
- q. where expected standards of performance may be affected.
- B1. The employee makes a formal request for accommodation using the of the supervisor. The supervisor copies the assigned Work-Life Consultant who will forward a copy to the Union RTW & Accommodation Officer (if not already involved).
- a. The employee may wish to contact HR, their Union RTW & Accommodation Officer or the supervisor for assistance in filling out the request form.
- b. A WorkSafe BC, ICBC or LTD case, where there is a gradual return to work or a return to work with modifications, is an accommodation case in terms of process and will follow these accommodation procedures.
- B2. To work through the accommodation process involving a formal request, the supervisor contacts the assigned Work-Life Consultant who advises the Union of the Request for Accommodation. At this point, an appropriate Accommodation Group may be set up.
- a. The onus is on the supervisor to initiate and coordinate the development of the accommodation plan.
- b. The employee may contact the Union or the assigned Work-Life Consultant for assistance.
- B3. After consultation with the assigned Work-Life Consultant, documentation will be requested to determine the functional impact of the disability.

#### Documentation encompasses:

- § Confidential information
- § Medical information/functional impact
- § Stability of condition or expected duration
- § Medical recommendations for coping strategies
- § Job information
- § Physical demands analysis
- § Employee's skills & abilities including education & experience
- § Matching of employee's functional abilities with job tasks
- § Input from co-workers
- **§** Other available jobs

- a. Documentation will be requested when:
  - § The functional impact is unclear, or
  - § The accommodation solution is unclear, or
  - § The accommodation will have a larger impact on the work unit, or
  - § There are persistent or frequent requests for accommodation, or
  - §There appears to be a pattern of abuse.
- Documentation should be provided as quickly as possible to facilitate the accommodation.
- c. A second opinion may be requested if there is insufficient or conflicting information to make a decision.
- d. The assigned Work-Life Consultant will accept medical information from a relevant professional who is licensed or approved to practice in Canada. The normal expectation is that this will be a physician or specialist.

PROCESS	DETAILS
B6. The Accommodation Group discussing the suitable accommodation includes the supervisor and employee and all relevant parties (including co-workers as appropriate).	a. Discussions may include next level图DC ( )TjEMC 588 Tdscn/GS0 gs0.1 Tc -0.1 Tw 10

PROCESS	DETAILS	
C4. When the employee is placed in a position, the supervisor in consultation with the assigned Work-Life Consultant, draws up the responsibilities of each party and a timeline for review (See sample ).  The core members of the Accommodation Group (and other as appropriate – this may include supervisor from the previous & new position) sign the AP. The appropriate director or dean signs any AP which involves substantial cost or alteration to operations or the workplace.	<ul> <li>a. The AP will record the request, the functional impact, the accommodation, the expectations and responsibilities of all affected parties, process for resolving difficulties, timeline for review.</li> <li>b. The AP is a communication tool to ensure that everyone involved understands expectations and that difficulties are dealt with promptly.</li> <li>c. The AP will be reviewed and adjusted as necessary throughout the accommodation98 0 Tdc.294 TD@dealt with (or accommR cmanag41 T (ec)chai1 T.1es tdition to operas or the e.9 (evious accommR cmanag41 T (ec)chaikydid 1 i5n G@c)6upiOmoda.3MC minen@fc</li> </ul>	& new posiW)33xt

PROCESS	DETAILS	
D. ACCOMMODATION IN A POSITION OUTSIDE THE DEPARTMENT, BUT WITHIN THE DIVISION/ FACULTY IN THE SAME BARGAINING UNIT.		
D1.		

PROCESS	DETAILS	
D4. When the employee is placed in a position, the director/dean in consultation with the assigned Work-Life Consultant, draws up the (AP) which outlines the responsibilities of each party and a timeline for review. (See sample ). The core members of the Accommodation Group (and others as appropriate – this may include supervisors from the previous & new position) sign the AP.	<ul> <li>a. The AP will record the request, the functional impact, the accommodation, the expectations and responsibilities of all affected parties, process for resolving difficulties, timeline for review.</li> <li>b. The AP is a communication tool to ensure that everyone involved understands expectations and that difficulties are dealt with promptly.</li> <li>c. The AP will be reviewed and adjusted as necessary throughout the accommodation period.</li> </ul>	
D5. The supervisor provides appropriate orientation, training, coaching and regular feedback as they should for any employee in a new position.  comput3.544/T1_0 1 Tf如7 (he 3 st	a. Relevant training should be provided (e.g. for a new computer program, etc.).  b. Ifd啄)-4 (elevior an)13 (y )型JFid (.)TjE,d1 0 TM w coa3函ActualText图EFF005Tf-0commodation03 0 Td例)-10 (fd啄)-4 (elev302ng andi.)cany20xw@mpltBDC (n(.3 (y )型JT)Span3.544fd啄)-4 TTj/(and ot .g Ifd啄)-4 (elevior an)13 (y )型JFid (.)TjE,d1 0 TM w coa3函ActualText图EFF005Tf-0commodation03 Eg aNothue(oj/jorsaf)1	hers )⊠d∰men

PROCESS	DETAILS	
E. ACCOMMODATION IN A POSITION OUTSIDE THE DIVISION/FACULTY, WITHIN THE SAME BARGAINING UNIT		

#### PROCESS DETAILS

- F1. When the Accommodation Group, determines that it is not possible to accommodate the employee in his or her own bargaining unit the assigned Work-Life Consultant meets with other Union reps to consider other possibilities for positions within the employee's own department/faculty. Only if it is not possible to accommodate the employee in another position in the bargaining unit will the parties look elsewhere in the University. The Accommodation Group identifies potential areas that might be suitable for the employee. The assigned Work-Life Consultant meets with Union representatives from other areas to consider options in other bargaining units or employee groups across the University.
- a. The decision to consider jobs outside the bargaining unit should be done with all due haste, taking into consideration all feasible options within the bargaining unit, the needs of the employee, the effect on other employees, and the least disruptive accommodation.
- b. A decision not to place the employee in another bargaining unit must meet the test of undue hardship.
- F2. The assigned Work-Life Consultant will identify potential suitable vacant positions for which the employee has the qualifications and functional abilities elsewhere in the University. Once suitable positions have been identified, the Accommodation Group will review and plan the accommodation.
- a. The assigned Work-Life Consultant checks position openings before vacancies are posted and checks with members of the Accommodation Group or others to identify possible regular, casual or other sets of job tasks for the accommodation.
- b. The attempt is to match the employee to a position most appropriate to his or her experience and abilities, in the least disruptive accommodation.

Follow steps in Section C

PROCESS DETAILS

#### G. WHEN ACCOMMODATION IN THE UNIVERSITY IS NOT POSSIBLE

- G1. In the event it is not possible to accommodate the employee in any position within the University, the employee's status will be determined in accordance with the applicable collective agreement. The assigned Work-Life Consultant will document undue hardship for the accommodation record.
- The assigned Work-Life Consultant will track employees awaiting accommodation and will assess position vacancies for their suitability.
- b. Employees awaiting accommodation may use sick leave, vacation, lay-off or leave of absence in accordance with the employee's collective agreement.

## **APPENDICES**

### **FORMS**

Request for Accommodation and Contact Information2 p.	age
Accommodation Plan (template) and Simple Accommodations Worksheet1 pa	age
Documenting a Simple Return to Work1 p.	age
Job Shadow/Trial Log1 pa	age
WorkSafe Claims Management Program1 p.	age
GLOSSARY	
Accommodation Terms and Resources1 pa	age

### REQUEST FOR ACCOMMODATION



NAME	DEPT	
POSITION		
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I am requesting a	n accommodation in my job due to a disability.	
What effect does the	e disability have on your ability to do your job? What duties are you unable to do?	
What kind of accom	modation do you think will be helpful for you?	
•••••		
	es (or different duties) you think you can do? Please list:	
	es (or different duties) you trink you can do? Please list:	
•	to a work-related illness/injury? Yes No	
Or a motor vehicle ac	cident? Yes No	
SIGNATURE	DATE	
Please give this form	to your Supervisor who will send a copy to the assigned Work-Life Consultant, who will forward a copy ecommodation O cer.	у
Supervisor	Copy sent to Work-Life Consultant	
Work-Life Consultant	Copy sent to Union Representative	

### ACCOMMODATION PLAN

DEPT/WORK UNIT	DATE
EMPLOYEE	POSITION
SUPERVISOR	
FUNCTIONAL IMPACT	
CURRENT SITUATION	
ACCOMMODATION MEASURES	
REVIEW DATE	
Any of the parties may request a meeting at any time	e to further discuss the Accommof1Uner discuss the Ay ti927ther discuss the
SAITY OF THE Parties may request a meeting at any time	e to further discuss the Accommon forier discuss the Ay (1927 their discuss the

### SIMPLE ACCOMMODATIONS

### WORKSAFE CLAIMS MANAGEMENT PROGRAM

PROCESS	DETAILS
1. When an occupational injury occurs the University is	

## **GLOSSARY**

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Consists of core members: Work-Life Consultant, Return to Work and Accommodation Officer (Union), supervisor, employee; plus coworkers, Occupational Health, Safety and