

POLICY TITLE: Employer's Duty to Accommodate	POLICY SECTION: Human Resources	POLICY NO: 2.1
RELATED BOARD POLICY:	1.2.7 Employment Equity Policy	
RELEVANT LEGISLATION:	Canada Human Rights Act	
RELATED DOCUMENTS:	King's University College Faculty Association Conditions of Appointment King's University College Staff Association Terms and Conditions Professional Administrative Officers' Association Terms and Conditions CUPE	
PRIMARY APPROVER:	Principal	
SECONDARY APPROVER:	Director of Human Resources	
RESPONSIBLE DEPARTMENT:	Human Resources	
DATE APPROVED:	5 May 2021	
DATE(S) REVIEWED / REVISED:		
POLICY REVIEW - FREQUENCY:	To be reviewed every four years	
APPROVER SIGNATURE:		

1. Purpose

King's University College at The University of Western Ontario is committed to providing equitable treatment with respect to employment without discrimination based on the protected grounds as described by the *Canadian Human Rights Act*.

King's College has adopted this policy to ensure that employees are provided with meaningful employment that is ethical and fair, and is in compliance with all applicable employment and human rights legislation.

King's College will work to achieve a workplace free of barriers by providing accommodation for the needs of those individuals covered by the Act, up to the point where it causes undue hardship for King's College.

2. Scope of the Policy

2.1. This policy applies to all employees and departments of King's University College.

3. Definitions

3.1. Define relevant terms in the policy. The kinds of words that should be defined include: unfamiliar words, technical terms, and words used to shorten a term (for example: University: means King's University College).

4. Policy

4.1. King's endeavours to provide reasonable accommodation by:

4.1.1. Designing individualized plans in consultation with all relevant stakeholders, the employee, and medical professionals (where appropriate)

4.1.2. Ensuring dignity and confidentiality are upheld

4.2. Protected Grounds

The protected grounds as outlined in the *Canadian Human Rights Act* are:

4.2.1. Race;

4.2.2. National or ethnic origin;

4.2.3. Colour;

4.2.4. Religion;

4.2.5. Age;

4.2.6. Sex;

4.2.7. Sexual Orientation;

4.2.8. Gender identity or expression;

4.2.9. Marital Status;

4.2.10. Family status;

4.2.11. Genetic characteristics;

4.2.12. Disability; and

4.2.13. Conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

4.3. Accommodation

Accommodation applies to any employee whose work requires modification or adjustment to address their needs. Accommodation may be temporary, or permanent and may change, based on the requirements of the individual.

4.4. Duty to Accommodate

King's will use a consultative approach to assist in the accommodation process involving the employee, and where appropriate, any applicable union or association representatives, healthcare professionals, and other identified third party professionals required to assist in the accommodation process.

4.5. Undue Hardship

King's shall work to provide workplace accommodation up to the point of undue hardship. Undue hardship may occur where it is established that no forms of appropriate accommodation exist, no necessary job vacancy exists, or where the creation of accommodation would cause excessive costs that create undue hardship for the organization and/or employees in the department, or where the accommodation would create a health and safety hazard.

4.6. Responsibility for Accommodating Employees

Providing accommodation is a shared obligation of King's, the employee, and any applicable associations or unions representing employees. Direct supervisors should be the first point of contact for employees when requesting a form of accommodation.

Together, in consultation with Human Resources, and, where appropriate, healthcare practitioners and other required third parties will work to determine the most appropriate form(s) of accommodation to meet the needs of the individual.

In the creation of an accommodation plan, Human Resources in collaboration with relevant stakeholders shall:

1. Identify the need for accommodation.
2. Determine objectives for performance in the role, and potential barriers.
3. Create a plan for achieving the objectives in an alternative manner.
4. Examine the options for accommodation, and select the most appropriate avenue for accommodation.
5. Implement the accommodation process.
6. Provide training as appropriate.
7. Meet regularly with the individual and review/revise plan based on feedback.

4.7. Medical Documentation

Medical documentation stating the functional abilities of the employee will be required by King's to ensure accommodation requests are appropriate. All medical documentation will be deemed confidential in accordance with King's document handling policies and applicable privacy legislation.

4.8. Employees on Long Term Disability

In the event that an employee on long term disability has had a change in definition to total disability, and will therefore not be able to return to work even with accommodations, King's may deem that the employment contract with the employee has become frustrated. The employment contract may then be terminated in accordance with all relevant legislative requirements and in accordance with the applicable Terms and Conditions and Collective Agreements.

In the event that an employee is returning to work after a long term disability leave, King's will accommodate the individual in accordance with this policy and any applicable return to work policies.

4.9. In the Event an Employee Cannot be Accommodated in Current Position

The Human Resources Department, working with appropriate King's administrators, the employee, and union/association if applicable, will attempt to place the employee in another available position. The employee must apply and be successful to this position following King's hiring process. This may require the assistance of third parties with specialized expertise.

4.10. Union Collective Agreements and Terms and Conditions Documents

The union and association(s) must cooperate in the accommodation process of any employee that it represents.

4.11. Financing the Accommodation

Should the accommodation require an investment in materials, equipment or increased budget for the position, the employee's department is responsible for covering the costs. In the case where the accommodation necessitates significant costs, the department may submit a request for additional funds to the Vice Principal Finance and Support Service.

4.12. Accommodating Job Applicants

King's will meet all legislative requirements in providing accommodation to job applicants. Any applicant to King's who communicates the need for accommodation shall be considered in a manner that is non-discriminatory and respectful of our human rights and Accessibility for Ontarians with Disability Act obligations.

4.13. Bona Fide Occupational Requirement

Where a bona fide occupational requirement exists, King's cannot make changes to that portion of the position. When determining if a task has a bona fide occupational requirement, King's will take into consideration if:

- The requirement is connected to the functions of the position.
- The requirement is adopted in good faith on the grounds that it is necessary.
- The requirement is reasonably necessary to accomplish the purpose or goal, in the sense that the employer cannot accommodate individuals who do not fulfill the bona fide occupational requirement without incurring undue hardship.

4.14. Non-Compliance

Employees, supervisors and senior leaders of the College should be aware that a failure to comply with this policy, including any arrangements that are put in place under it, will be investigated and may lead to disciplinary action being taken.

5. Procedures

5.1. List any procedures that correspond to this policy.

6. Appendices