

EDMONTON

ADMINISTRATIVE PROCEDURE



TITLE

DUTY TO ACCOMMODATE DISABILITIES

NUMBER

A1126

DEPARTMENT

CORPORATE SERVICES

DELEGATED AUTHORITY

**GENERAL MANAGER, CORPORATE
SERVICES**

CONTACT

**DIRECTOR, OCCUPATIONAL HEALTH &
SAFETY 496-5950**

DEFINITIONS

DATE

MARCH 8, 2007

Disability – For the purposes of this Procedure refers to either a Physical or Mental Disability as defined below.

Physical Disability – Any degree of physical disability, infirmity, malformation or disfigurement caused by bodily injury, birth defect or illness.

Mental Disability – Any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder.

Disability Management Consultant (DMC)– A professional employed within the Human Resources Branch with expertise in the areas of disability claims management and return to work that is assigned responsibility for managing disability related claims and maintaining the confidentiality of related medical information of city employees.

PROCEDURES AND GUIDELINES

Guidelines

Not all disabilities will result in limitations or restrictions in performing one's job; however, to the extent the disability can be proven to interfere in whole or in part with the ability to perform one's job, a duty to accommodate may arise.

Accommodation will only be required where the incapacity to do the job properly is caused by the disability. This causal connection will be established by medical evidence. Accommodation is required only to the point of undue hardship.

AS TO FORM:

AS TO CONTENT:

PAGE 1 OF 4

EDMONTON

ADMINISTRATIVE PROCEDURE

TITLE

DUTY TO ACCOMMODATE DISABILITIES

NUMBER

A1126

DATE

MARCH 8, 2007

Accommodation Process

One or more DMC will be assigned responsibility for each area of the City's workforce. The designated DMC will be responsible for managing the need to accommodate employees due to mental or physical disability within their designated area of responsibility whether initiated by:

- An employee request to be accommodated
- A managerial, Union or Association request that;
 - An employee be accommodated
 - An assessment be made as to whether an employee's need for accommodation has changed, or whether any accommodation measures should be changed, or
- An assessment of whether, in respect of any accommodation or proposed accommodation measure, adopting that measure would amount to undue hardship.

When an employee makes a request to be accommodated, the City, through the responsible DMC, will take steps to determine whether the person suffers from a disability and if so what, and the extent of the need for accommodation.

If the need for accommodation, or the modification of an accommodation is accepted, steps will be taken by the DMC's, in consultation with managerial and, where warranted, union, representatives, to identify suitable job modifications or to seek other suitable work, either in its existing or modified form so as to accommodate the employee's needs. This search will be based on the priorities set out in the "Accommodation Search" section below.

A similar process will be followed when an employee seeks or is in need of accommodation following a period of absence due to illness or injury and has reached the point where return to work, either to their original or some other job, may be appropriate.

Employees seeking accommodation have a legal duty to cooperate in the search for accommodation and to provide access to medical information that is reasonably required to establish the employee suffers from a disability and the extent of any restrictions or capabilities.

In assessing whether employees suffer a disability; need accommodation as a result of a disability; or have the capacity to function within their existing or some other position (perhaps modified), the DMC will obtain whatever information may be available from the employee's own medical advisers and exhaust that avenue before making any determinations.

Expert opinions necessary for the administration of the duty to accommodate physical or mental disabilities, where necessary, and following the consultation procedures set out in that schedule, will be obtained in accordance with the Duty to Accommodate Framework Agreement Schedule 3.

Rulings by insurers or the Workers' Compensation Board and evidence of disability or capacity obtained through those processes may be considered in assessing a person's situation. Insurer or WCB rulings will not be treated as determinative of the person's need for or entitlement to accommodation upon their return to work.

EDMONTON

ADMINISTRATIVE PROCEDURE

TITLE

DUTY TO ACCOMMODATE DISABILITIES

NUMBER

A1126

DATE

MARCH 8, 2007

Accommodation Search

In seeking out suitable accommodation, the DMC, working with the parties involved, will follow the following steps and respect the following priorities:

Consideration will first be given to positions which fall within, or by the nature of the reconfigured duties would ordinarily be allocated to, the employee's existing bargaining unit. Alternatives will be assessed in the following order:

- First, consideration will be given to alterations to the employee's existing job
- Second, consideration will be given to positions within the employee's work area;
- Third, consideration will be given to jobs within the employee's employing department;
- Fourth, consideration will be given to jobs anywhere in the City.

Consideration will only be given to positions within a different bargaining unit once all reasonable options within the existing bargaining unit have been assessed and found inappropriate.

- First, consideration will be given to positions within the employee's work area;
- Second, consideration will be given to positions within the employee's own department;
- Third, consideration will be given to jobs anywhere in the City.

In the reviews conducted under within the bargaining unit and if necessary in a different bargaining unit, the DMC, working with managerial representatives and the parties will, as part of their consideration:

- assess not only existing positions, but the possibility of modifying existing jobs or bundling work and reassigning duties to achieve a suitable accommodation;
- give preference between possible options to those that provide the employee with pay and terms and conditions closest to their existing levels;
- follow a non-exhaustive checklist of possible accommodation measures, documenting options that were considered and why they were found unsuitable.

A guide to aid in the search process can be found in the Duty to Accommodate Framework Agreement Schedule 5.

Confidentiality

The management of accommodation issues will be undertaken within the legislative and contractual provisions that protect an employee's right to privacy and will include adherence to the principles of confidentiality set out in this procedure.

Employees seeking accommodation based on a mental or physical disability may be required to provide medical and related information about their disabilities or capacities to support their needs for accommodation measures. The same applies to employees seeking benefits that are dependent on their inability to work because they cannot be accommodated at work due to a mental or physical disability. Such information will be treated as confidential, to be shared on a need to know basis within the principles of confidentiality set out below.

In addition to any statutory or contractual requirements, the following confidentiality protections will apply:

- Medical information and records submitted to the City either directly or by health care providers will be held in confidence by the City's DMC's.
- DMC's will only share with managers such information as is necessary for the manager to know the employee's abilities and work restrictions.

EDMONTON

ADMINISTRATIVE PROCEDURE

TITLE

DUTY TO ACCOMMODATE DISABILITIES

NUMBER

A1126

DATE

MARCH 8, 2007

- The City will provide information to a Union representing an employee based on the terms of any release given to the Union by the employee. Without a release, the DMC will only share such information as is necessary for the Union to know the employee's abilities and to understand the need for the Union's consent to any changes to workplace rules.
- Participants receiving medical information about an employee for the purposes of accommodation agree to respect the terms of confidentiality under which it is released.

Where releases are in place, the DMC will promptly notify the union representing the employee seeking accommodation when medical information is received concerning the claim.

Dispute Resolution

The City will enter into Letters of Understanding with the various unions in accordance with the Duty to Accommodate Framework Agreement to create an expedited grievance and arbitration process to deal solely with accommodation issues. Templates for such agreements can be found at Duty to Accommodate Framework Agreement Schedule 4.

Requests for accommodation post-termination, and issues surrounding the accommodation of disabilities alleged to be due to addictions to drugs or alcohol, will be dealt with through the regular grievance processes provided for in the various collective agreements.