

Chapter:	Human Resources	Policy #:	5.01
Section:	Employment	Effective Date:	August 1, 2017
Policy Title:	ACCESS AND ACCOMMODATION	Approved By:	President & CEO
		Revised On:	April 22, 2021
		Next Review Date:	April 22, 2023
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1. POLICY STATEMENT

- 1.1** It is the policy of Canadian Hearing Services that when an employee requests an accommodation for needs related to Deafness, hearing loss, or a disability, Canadian Hearing Services (CHS) will accommodate the employee to the point of undue hardship. Where an accommodation would cause undue hardship, CHS will implement the next best accommodation short of undue hardship.
- 1.2** CHS is required to and will comply with certain provisions contained in applicable provincial and national Human Rights legislations, including Canada Human Rights Act and Ontario Human Rights Code and provincial accessibility legislations, including the Accessibility for Ontarians with Disabilities Act, 2005 (“AODA”) and Part III — Employment Standards of the Integrated Accessibility Standards Regulation made under the AODA.
- 1.3** The appearance of accessibility is not sufficient - effective accommodation is the standard and must be met.

2. PURPOSE

- 2.1** The purpose of this policy is to state CHS’ commitment to the prevention and removal of barriers to people with disabilities and those who are Deaf or hard of hearing, to the accommodation of those persons and to establish processes by which those persons may request accommodation.

3. SCOPE

- 3.1** This statement of policy and procedure applies to all CHS locations.

4. RESPONSIBILITY

4.1 Employee:

The employee requesting an accommodation and their immediate manager are responsible for working together cooperatively with the goal of finding a valid accommodation and developing an accommodation plan.

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4.2 Manager:

Each manager is responsible for ensuring the principles outlined in this Statement of Policy and Procedure are adhered to throughout all business activities.

5. DEFINITIONS

“**Disability**”, as defined by the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act, means:

- a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing loss or hard of hearing, speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- b) a condition of cognitive impairment or a developmental disability;
- c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- d) a mental disorder; or
- e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

CHS is committed to respecting the identities and dignity of all disabled and Deaf/hard of hearing individuals, and to remaining inclusive with respect to these identities based on the unique cultural elements of CHS and its clients. As such, CHS operates under its own definition of “**disability**”:

Any extenuating and uncontrollable element of an individual's existence, which may impact that individual's capacity to conform to societally traditional conduct. Such an element may be physical, mental, cognitive, neurological, psychological, emotional, sensory, or viral/bacterial. A disability may be innate or present since birth, or it may be a result of sudden or gradual trauma. Temporary or sustained treatment may exist to partially or fully alleviate some or all unwanted or difficult elements of

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a disability, or a disability may be entirely unable to be alleviated whatsoever. Some disabilities may require accommodations, while others may not.

Additionally, due to the various social and cultural elements present specifically in the Deaf/hard of hearing community, Deaf/hard of hearing individuals often do not prefer to be labelled as having a “disability”. It is CHS’ decision to include these individuals, and as such the broad demographic covered by this policy shall be referred to as “having a disability and/or being Deaf/hard of hearing”, or a similarly inclusive group of qualifiers.

“**Access**” means an emphasis on a barrier-free environment for purposes of participation, performance, and advancement. Under the law this means making changes or allowances within the workplace. This concept includes, but is not limited to, communication access for Deaf and hard of hearing employees and volunteers.

“**Accommodation**” achieves the following: addresses an individual's needs most rapidly, maximizes the individual's dignity, autonomy, privacy and integration into the workplace and the larger society; and minimizes discomfort or inconvenience.

“**Communication Access**” specifically refers to accommodating people who are Deaf or hard of hearing. CHS has a number of access strategies (see other information regarding communication access, captioning, interpreting, meeting access protocols).

“**Undue Hardship**”

Under the Canadian Human Rights Act, an employer can claim undue hardship when adjustments to a policy, practice, by-law, or building would cost too much, or create risks to health or safety. There is no precise legal definition of undue hardship or a standard formula for determining undue hardship. Each situation should be viewed as unique and assessed individually. It is not enough to claim undue hardship based on an assumption or opinion, or by simply saying there is some cost. To prove undue hardship, the employer must provide evidence as to the nature and extent of the hardship.

6. PROCEDURE

- 6.1** During the recruitment process, CHS shall notify job applicants and the public about its commitment to accommodate those with disabilities or who are Deaf/hard of hearing and shall advise those selected for an interview that accommodation is available upon request. If a selected applicant requests an accommodation, CHS shall consult with the applicant and provide or arrange for the provision of a suitable accommodation in a

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manner that considers the applicant's accessibility needs due to disability or being Deaf/hard of hearing.

Successful applicants and employees shall be notified of CHS' policies regarding accommodating employees who are Deaf, hard of hearing, or with a disability as soon as possible after their employment begins and whenever a change in policy takes place.

- 6.2** Employees who wish or need to raise a potential accommodation issue shall do so by submitting a request for accommodation, preferably in writing, to their immediate manager.

The request should:

- (i) describe the limitations on the employee's ability to perform the duties of their position caused by the disability;
- (ii) describe any accommodation(s) sought;
- (iii) provide sufficient information to confirm the existence of a need for accommodation.

If an employee is under a program of medical treatment which requires the consumption of prescription drugs, including medical marijuana, or over-the-counter drugs, which are labelled or known to cause impairment, the employee is required to inform their manager about the program immediately so that the risk of impairment relative to the employee's safe job performance can be considered.

- 6.3** Immediately upon receiving a request, the manager will arrange a meeting with the employee to:
- a) Reassure the individual that the request for accommodation and that the discussion is confidential and that they will not be negatively affected by the request, the accommodation or by any information provided;
 - b) If applicable, review CHS' policy and procedures;
 - c) If applicable, refer the employee to other resources funded by CHS, such as the short-term disability plan, long-term disability plan or employee assistance program.
- 6.4** When necessary to facilitate the assessment and determination of accommodation up to undue hardship, the employee may be required to participate in the development of an accommodation plan and to provide relevant medical information to CHS related to the nature of the limitation, restriction, or access needs. The employee may request the

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participation of an employee representative or, in the case of a bargaining unit employee, the bargaining agent in the development of the accommodation plan. Employees seeking accommodation upon the basis of disability, Deafness or hearing loss are expected to cooperate in providing documentation from a qualified medical professional when required. The documentation requested may include confirmation that the employee has a disability, limitations or needs associated with the disability, whether the person can perform the essential duties or requirement of the job, the type of accommodations that may be needed to allow the person to fulfill the essential duties or requirements of the job.

- 6.5** The manager and the HR Manager will jointly assess the accommodation issue considering the information provided and the individual needs of the employee. During the assessment phase, CHS reserves the right to require further information related to the nature of the limitation, restriction, or access needs, including relevant documentation or opinions that will assist CHS to determine if accommodation can be achieved and how it can be achieved.

CHS may request the employee to participate in a needs-assessment by a qualified medical practitioner or other trained professional to assist in determining what accommodation is needed, how much it will cost, and how it can be provided. No one can be made to attend an independent medical examination, but failure to respond to reasonable requests may delay the accommodation until such information is provided and may ultimately frustrate the accommodation process.

- 6.6** The manager and HR Manager will jointly finalize a decision regarding the accommodation issue. The manager shall notify the employee in writing, or other format as required by the employee's disability, Deafness, or hearing loss, of the decision and the reason(s) for the decision within twenty-two (22) business days of the request.

- 6.7** If the employee is not satisfied with the written decision regarding the request for accommodation, the employee may appeal the decision to the Director of Human Resources for further review. The Director of Human Resources will provide the employee with a written review of the request for accommodation and decision within five (5) business days.

If the employee is not satisfied with the written review of the request for accommodation, the employee may appeal the decision to the President & CEO of CHS within ten (10) business days of the receipt of the written review from the HR Director. The decision of the President & CEO shall be provided in writing within ten (10) business days and shall be final and binding upon the parties.

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- 6.8** CHS shall ensure that the employee's personal medical information shall be kept confidential and will only be disclosed to those necessary in the assessment and development of the accommodation in accordance with the Access to Employee Records policy.
- 6.9** CHS shall provide individualized workplace emergency response information to any disabled or Deaf/hard of hearing employee who requires it, and to any person designated to assist the employee, with the consent of the employee, and shall review the individualized workplace response information upon the following events:
- a) when the employee moves to a new location in the workplace;
 - b) when the employee's overall accommodation needs are reviewed; and
 - c) upon review of CHS's general emergency response policies.
- 6.10** Employees who are absent from work due to their disability shall participate in the development of a return-to-work process which includes the development of an individual accommodation plan, as per CHS' *Return to Work* policy. Employees who require an accommodation to return to work shall submit a request for accommodation in accordance with paragraph 6.2 above.
- 6.11** Accessibility needs of employees and individual accommodation plans will be considered when managing an employee's performance, career advancement or opportunities for redeployment.
- 6.12** All employees and volunteers will be provided with adequate training with respect to the *Human Rights Code (Ontario)*, the *Accessibility for Ontarians with Disabilities Act, 2005*, other related national legislation, and the accessibility standards required thereunder.
- 6.13** After a request for accommodation upon the basis of disability, Deafness, or hearing loss has been resolved, the employee's manager will initiate a review of any CHS policies, procedures or practices that contributed to the need for accommodation.
- 6.14** If an employee is to attend a meeting and requires an accommodation, steps will be taken to accommodate the employee as per CHS' *Communication Accessibility* policy.
- 6.15** All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request. If there is reason to believe that ableist or audist practices or sentiment have been displayed, in the accommodation process or otherwise, a complaint may be filed and anti-discriminatory strategies will be employed as per CHS *Anti-Audism / Anti-Ableism* policy.

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6.16 The above procedures do not affect an individual's right to file a complaint with the Human Rights Tribunal of Ontario, or the Company's right to seek legal counsel.

7. RELATED POLICIES, TOOLS and REFERENCES

Number	Name of CHS Policy/Form
2.01	Adherence to the Regulatory Bodies' Code of Ethics (Employment Principles?)
5.04	Workplace Harassment Policy
5.10	Performance Appraisal
5.17	Access to Employee Records
6.06	Fitness for Duty
6.39	Return to Work Policy
5.19	Anti Audism / Anti Ableism Policy
5.07	Diversity Policy
5.24	Communication Access Policy

References:

*Accessibility for Ontarians with Disabilities Act, 2005 (Ontario) and Regulations
Human Rights Code (Ontario)*

Canadian Human Rights Commission, Duty to Accommodate:

<https://www.chrc-ccdp.gc.ca/eng/content/what-duty-accommodate>

Canadian Hearing Services' Position Paper on Rights to Employment including a list of accessibility laws and human rights laws on the duty to accommodate persons with disabilities in Canada <https://www.chs.ca/position-paper-rights-employment>

This Policy Replaces	Not applicable – update of existing policy
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Approved by:

Dated:

Signature

April 22, 2021

Julia N. Dumanian
President & Chief Executive Officer
Canadian Hearing Services