

TYPE:	Administrative
TITLE:	Accommodations for Students with Disabilities
NO.:	ADMIN-225
RESPONSIBILITY:	Vice President, Student Affairs
APPROVED BY:	Durham College Leadership Team
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1. Introduction

Durham College values and actively promotes the right of all individuals, including those with disabilities, to have an equal opportunity to experience success in their academic endeavors with the institution. Durham College recognizes that successful learning outcomes are the result of shared responsibility and commitment on the part of all members of the Durham College Community.

2. Purpose

The purpose of this policy is to identify college obligations to accommodate applicants and students with disabilities and to provide a framework for developing appropriate accommodation to the point of undue hardship. The policy also provides an effective and timely process for applicants and students to appeal accommodation decisions made under this policy

3. Definitions

Refer to [Durham College's Standard Definitions](#).

4. Policy statements

4.1. Guiding Principles

- 4.1.1. Each student has the right to access education in an environment that promotes individual dignity, equality, and respect. Durham College prohibits and will not tolerate discrimination or harassment on the basis of disability, or any other ground enumerated in the *Ontario Human Rights Code*.
- 4.1.2. Durham College focuses on the removal of barriers to education and services for students by designing facilities, systems, services and curricula in such a way that enhances accessibility. Durham College will accommodate students with disabilities requiring accommodation to the point of undue hardship.

- 4.1.3. Accommodation is intended to promote integration and full participation of persons with disabilities.
- 4.1.4. The needs of the students are accommodated in a manner that respects their dignity.
- 4.1.5. Willingness to explore all possible accommodation solutions is key to treating students with respect and dignity and appropriately accommodating a student's disability.
- 4.1.6. As each person has unique needs, and accommodation is explored and provided on an individualized basis.
- 4.1.7. The accommodation process is a cooperative process, involving shared responsibilities among the student requesting accommodation and Durham College.
- 4.1.8. Once accommodation is provided, students are expected to meet the published learning outcomes and essential requirements of their academic programs.

4.2. Accommodation Principles

- 4.2.1. Durham College will accommodate qualified applicants with disabilities with respect to pre-admission requirements and processes, including for example, accommodations regarding pre-admission tests.
- 4.2.2. Students with disabilities who are admitted to Durham College's programs will be accommodated to the point of undue hardship, regardless of their prospects for success in their program(s) or for finding employment post-graduation.
- 4.2.3. Where accommodation includes modification or waiver of a health or safety practice, Durham College will assess the resulting risk to the student and others on an objective basis. If accommodation would result in a significant or substantial health or safety risk to the student requesting accommodation, to other students, college employees or volunteers, or other members of Durham College community Durham College may deny the accommodation on the grounds of undue hardship.
- 4.2.4. Durham College is guided by procedure ADMIN 225.1 to facilitate the implementation of this policy.

- 4.2.5. Where a person with a disability cannot be accommodated in accordance with these principles, or where a person is found incapable of performing the essential requirements of a program or course, alternatives are explored with the student. Any arrangements regarding withdrawal must be approved by the vice president, Academic, or designate. Issues related to fees or possible fee refunds are decided by Student Enrollment Services.
- 4.2.6. Students with disabilities who appeal matters under Durham College's appeal procedure (ADMIN 225.1) will be provided with reasonable accommodation to the point of undue hardship in the appeal process.
- 4.2.7. Durham College is not responsible for costs incurred by a party who retains a paid advisor.

5. Procedure

5.1. Accommodation Procedures

- 5.1.1. Durham College advises all students and applicants about the availability of services for students and applicants with disabilities. Information about the Access and Support Centre is included with offers of acceptance for post-secondary programs. The Continuing Education calendar includes a general statement about the availability of assistance for students with a disability. Applicants can find information about the Access and Support Centre (ASC) in the [course calendar](#).
- 5.1.2. Students and applicants are responsible for advising Durham College of a disability requiring accommodation by contacting the Access and Support Centre. Early identification is encouraged so that appropriate accommodations can be put in place by the beginning of the term and during the application process.
- 5.1.3. The Access and Support Centre meets with the student to collect necessary information. Students are responsible for providing the ASC with sufficient information as to their needs, restrictions and/or limitations, which may include medical documentation ("supporting documentation"). Students are also responsible for responding to reasonable requests for information made by Durham College for the purposes of accommodation.
- 5.1.4. Students who request accommodation are assigned to an accessibility coach or case manager who reviews the information collected and assesses the supporting documentation and appropriate accommodation solutions. The student is responsible for cooperating with and participating in the accommodation process, and is strongly encouraged to meet with the coach to consult about appropriate academic accommodation.

- 5.1.5. The accessibility coach prepares a written "Confidential Student Access Plan" that lists academic accommodations provided given the student's disability. The student's supporting documentation remains strictly confidential, is kept secure in the ASC, and is only shared with those individuals who are on a "need to know" basis for the purposes of accommodation.
- 5.1.6. The student is provided with copies of their personal "Confidential Student Access Plan." With the student's permission the ASC will email each of the student's professors with the plan or the student can choose to provide a copy to the professor in each class for which accommodation is required, to the extent it is necessary to do so for purposes of accommodation. It is recommended that the student meet personally with each professor to discuss the required accommodations.
- 5.1.7. If the appropriate academic accommodation is a reduced course load, the accommodation will be provided within the criteria of financial aid and enrolment procedures for *Students with Disabilities Requiring a Reduced Course Load*. (Strategic Enrolment Services internal policy and procedure.

5.2. Challenge of an Accommodation

- 5.2.1. If a student has a concern about the appropriateness of an academic accommodation provided, the student is responsible for raising the concern immediately with the faculty member who teaches the course. If the matter is not resolved within 5 business days, the student is responsible for raising the concern immediately with the assigned accessibility coach or with another coach at the ASC. The accessibility coach or another member of the ASC will meet with the student as soon as is reasonably possible to review the student's needs and accommodations, and attempt to resolve the student's concern.
- 5.2.2. If the student has a concern about the appropriateness of a non-academic accommodation provided, the student is responsible for raising the concern immediately with the assigned accessibility coach or with another coach at the ASC. The accessibility coach or another member of the ASC will meet with the student as soon as is reasonably possible to review the student's needs and accommodations, and attempt to resolve the student's concern.
- 5.2.3. If the student's concern is not resolved within 15 business days from the date the coach or ASC was first contacted, the student, the or the coach may refer the concern to the director, ASC for review.

- 5.2.4. The, director, ASC, within 7 business days of the referral, reviews and decides on the matter, and communicates Durham College accommodation decision to the student in writing. In the case of an academic accommodation, the academic advisor/associate dean for the student's program is consulted prior to the deciding of the matter. In the case of a non-academic accommodation, the Director, ASC will consult with the director of the relevant college department prior to the deciding of the matter.
- 5.2.5. If the student is not satisfied with the Durham College accommodation decision, the student may within five (5) business days initiate an appeal as outlined below.

5.3. Multiple Proceedings

- 5.3.1. Where the director, ASC determines that the subject matter of the complainant is more appropriately dealt with under another college policy, the director may, following consultation with the administrator of the other policy, exercise discretion to direct that the matter be dealt with and decided under the other college policy.
- 5.3.2. Where the subject matter of a complaint is also the subject matter of another procedure (e.g., an appeal of a grade under the Grade Appeals Policy and Procedure ACAD-111), the director, ASC works with the coordinator or administrator of the other policy to determine under which policy the matter is first addressed.

5.4. Appeal Procedure

- 5.4.1. A student may appeal a college accommodation decision to the vice president, Student Affairs (VPSA), within five (5) business days of receipt of a college accommodation decision from the ASC. In extenuating circumstances, an appeal filed beyond the five (5) business day limitation may be considered. All other time limits prescribed in this procedure may be extended with the written agreement of the parties.

5.5. Grounds for an Appeal

The student may appeal the college accommodation decision on one or more of the following grounds:

- a) There was a serious procedural or factual error which was prejudicial to the student.
- b) New evidence or information, not available at the time of the college accommodation decision, has been discovered, which casts doubt on the correctness of the decision.
- c) The student disputes that the accommodation decision provides them with the appropriate accommodation of their disability.

5.6. Initiating the Appeal

To initiate an appeal the student submits a written appeal to the VPSA, including all of the following information:

- a) Student name and number.
- b) Program name and number.
- c) A brief description of the college accommodation decision being appealed.
- d) A brief statement of the grounds for the appeal.
- e) The student's signature.
- f) The date of submission of the appeal.
- g) An attachment that provides details about the alleged serious procedural or factual errors, the new evidence/information, and how they caused prejudice to the student or rendered the decision incorrect, or the reasons for believing that the accommodation provided is inappropriate.

5.7. Appeal Process

The Accommodation Appeals Committee will consist of the VPSA and the vice president Academic (VPA).

The VPSA acknowledges receipt of the appeal and reviews the appeal to determine if the appeal has grounds based on the criteria set out above. If there are grounds for the appeal, it will proceed to the Accommodation Appeals Committee.

5.7.1. Review of Appeal

The appeal process will be initiated within 10 business days of receipt of the appeal.

The Accommodation Appeals Committee will:

- a) Meet with the student and provide an opportunity for the student to outline the reason for the appeal by elaborating on any new evidence/information or perceived procedural irregularity;
- b) Clarify any issues raised and identify any additional parties who need to be consulted to be able to make an informed decision;
- c) Provide the director, ASC and the accessibility coach with the opportunity to respond to the student's submissions; and,
- d) Provide the student with an opportunity to reply to the college's submissions.

5.7.2. Guiding Principles

In considering the submissions of the parties, the Accommodation Appeals Committee is guided by the following principles:

- a) In determining questions of fact, including allegations of serious procedural or factual error or new evidence/information that is alleged not to have been available at the time of the college accommodation decision and is alleged to cast doubt on the correctness of the decision, the Accommodations Appeals Committee decides on a balance of probabilities (i.e., the evidence shows that it is more likely than not that the alleged fact is true or not),
- b) Decisions of the Accommodation Appeals Committee:

In determining whether the college accommodation decision was appropriate the Accommodation Appeals Committee may determine:

- That the accommodation was reasonable in all of the relevant circumstances.
- That the appropriate accommodations have not been applied in all relevant circumstances, and the appropriate accommodation must be implemented.
- That there was a procedural error and the matter must be returned to the director, ASC for a redetermination.
- That the new evidence/information impacts the appropriateness of the accommodation provided, and the matter must be returned to the director, ASC for a redetermination

The Accommodation Appeals committee shall provide a written decision to the student who filed the appeal within 15 business days of the appeal being filed.

5.8. Protection from Reprisal

In order to protect individuals who make use of this policy or participate in procedures under this policy, Durham College prohibits reprisal or threat of reprisal against these individuals. Individuals who violate these provisions may be subject to discipline or other corrective action under the Employee Code of Conduct policy EMPL 317.

6. Roles and responsibilities

- 6.1. The Vice-President, Student Affairs is primarily responsible for overseeing and implementing Durham College's policies on accommodation.
- 6.2. Durham College will accept requests for accommodation in good faith unless there are legitimate reasons for not doing so.
- 6.3. Durham College will investigate all potential solutions and approaches to accommodation requests, and Durham College will keep records of accommodations requested and steps taken.
- 6.4. Durham College will respond to accommodation requests in a timely manner and will maintain confidentiality to the extent possible in the circumstances.
- 6.5. Durham College may obtain expert advice or opinion where necessary for purposes of accommodation.
- 6.6. Students are responsible for advising Durham College of a disability requiring accommodation and for providing sufficient information as to the student's needs, restrictions and/or limitations. The student has a responsibility to respond to reasonable requests for information made by Durham College relevant to accommodation.
- 6.7. The student is further required to participate in discussions around possible accommodation solutions and to cooperate and participate in the accommodation process. The student must work with Durham College on an ongoing basis to assess, manage and update accommodations.
- 6.8. Information about student and staff responsibilities are found in the Accommodation for Students with Disabilities Procedure ADMIN 225.1.

7. Accessibility for Ontarians with Disabilities Act considerations

Accessibility for Ontarians with Disabilities Act (AODA) standards have been considered in the development of this policy and procedure and it adheres to the principles outlined in the College's commitment to accessibility as demonstrated by the Accessibility Plan (ADMIN-203).

8. Non-compliance implications

An Administrative Monetary Penalties scheme is being established under AODA. The scheme will allow a director or a designate to issue an order against a person, organization or corporation to pay a penalty amount as a result of non-compliance with the AODA or the accessibility standards. The maximum penalty that could be issued to an individual or an organization is \$50,000.

There are significant costs to implementing the Accessibility Policy, however, failure to comply with applicable federal and provincial legislation may lead to legal costs arising from potential lawsuits for non-compliance.

9. Communications plan

- An article will be placed on the employee intranet (ICE) with accompanying policy for campus awareness.
- New employees will be made aware of the policy as part of their orientation.
- Students will be made aware through admissions material, ongoing class presentations, training sessions, awareness initiatives and events.
- Policy will be included in training with Student Association leaders and other student groups on an ongoing basis.

10. Related forms, legislation or external resources

- *Accessibility for Ontarians with Disabilities Act, 2005 S.O. 2005*
- *Accessibility Standards for Customer Service, O.Reg. 429/07*
- Canadian Charter of Rights and Freedoms, 1982
- Durham College Campus Accessibility Plan
- *Freedom of Information and Protection of Privacy Act RSO 1990, c.F.31*
- *Human Rights Code R.S.O. 1990, c.H.19*
- *Integrated Accessibility Standards Regulation, O.Reg.191/11*
- *Ontarians with Disabilities Act, 2001, S.O. 2001, c.32*
- Ontario Human Rights Commission: Guidelines on Accessible Education (Approved by the Commission September 29, 2004)
- *Personal Health Information Protection Act (PHIPA) 2004. S.O. 2004, c.3, Schedule A.*