

Purpose

The Ontario Human Rights Code (OHRC) protects students with mental health disabilities from discrimination in post-secondary education. Post-secondary institutions have a duty to accommodate students with disabilities to the point of undue hardship. Cambrian College has a legal obligation to eliminate barriers to equal access for students with mental health disabilities, potentially retroactively.

Definitions

Accommodations: An accommodation is an instructional or environmental change that allows a student to successfully understand and respond to the regular curriculum. Examples of accommodations include preferential seating in the classroom, extended time on tests, implementation of a behavior plan, and oral testing. The student is still expected to know the same material and do the same assignments as other students, but the accommodations allow alternate ways to learn and respond. Accommodations seek to provide 'fairness' in the classroom. Accommodations under this policy include retroactive accommodations.

Retroactive Accommodation: A retroactive accommodation is one that is applied in the present time that affects an event or activity that has already taken place. For example, requested after a test, deadline or course completion.

Fairness: Fairness and equality are not the same. Fairness is giving each student what they need to be successful, not providing the same thing to each student.

Functional limitations: Functional limitations are as a result of an underlying permanent or temporary mental health disability. Functional limitations disadvantage as student academically and require accommodations for the student to function to the best of their ability.

Mental health disability: In the context of mental health and mental illness, a person with a disability is someone whose mental illness significantly impairs his or her ability to perform day-to-day functioning.

Office for Students with Disabilities (OSD): Term used by the Ontario Human Rights Commission and Ministry of Advanced Education and Skills Development referring to the central location in each post-secondary institution where students with temporary and permanent disabilities can request academic accommodations. At Cambrian College the OSD is the Glenn Crombie Centre for Student Support.

Temporary mental health disabilities: Mental health conditions and functional limitations that are not long term and may be caused by experiencing a traumatic event e.g. assault), vicarious trauma (e.g. witnessing an accident), highly distressing experiences (e.g. death by suicide of a close friend, death of a loved one). People with temporary disabilities are protected by the Ontario Human Rights Code.

Undue hardship: Under the *Code*, every student with a disability is entitled to accommodation up to the point of undue hardship. The *Code* sets out three elements that may be considered in assessing whether

an accommodation would cause undue hardship:

- cost
- outside sources of funding, if any
- health and safety requirements, if any

To claim the undue hardship defense, the education provider has the onus of proof. The student requesting accommodation does not have to prove that the accommodation can be accomplished without undue hardship. The nature of the evidence required to prove undue hardship must be objective, real, direct and, in the case of cost, quantifiable. The education provider must provide facts, figures and scientific data or opinion to support a claim that the proposed accommodation in fact causes undue hardship. A mere statement, without supporting evidence, that the cost or risk is “too high” based on impressionistic views or stereotypes will not be sufficient.

Objective evidence includes, but is not limited to:

- financial statements and budgets
- scientific data, information and data resulting from empirical studies
- expert opinion
- detailed information about the activity and the requested accommodation
- information about the conditions surrounding the activity and their effects on the person or group with a disability

(<http://www.ohrc.on.ca/en/guidelines-accessible-education/undue-hardship-standard>)

Application/Scope

This policy applies to all staff and all registered students, and can apply retroactively.

Policy Statements

Many students with mental health problems have difficulty with timely access to mental health services which works against receiving appropriate assessment. Many show signs of significant disruption of their academic functioning due to mental health problems. Stigma remains a major factor which prevents students from disclosing information about problems with their mental health and/or disabilities. The policies developed herein apply to all types of disabilities, not just mental health.

1. Functional Limitations as the Basis for Accommodations

Accommodations are designed to address the student’s identified functional limitations linked to an underlying disability. Using functional limitations as the basis for accommodations in mental health is consistent with the practice for other disability types. The type of information that a student seeking accommodation is expected to provide includes:

- a) That the student has a disability or medical condition
- b) The limitations or needs associated with the disability
- c) The type of accommodation(s) that may be needed to allow the student to fulfill the essential duties of participating in an academic course or program.

2. Accommodations Provided Without Supporting Documentation from a Regulated Health Care Professional

When a student is waiting to be assessed by a Regulated Health Care professional to identify individual needs and limitations, Cambrian College uses the best information available to make the accommodation decision, or provide interim accommodations. The decision shall take into consideration how the student identifies his/her own needs, pending the assessment.

Students with developing mental health conditions may seek support from professors and/or from the services available at Cambrian College (Counselling or Health services); however, it may take weeks to get an appointment for professional care and longer for a final diagnosis to be reached. In these circumstances, students may seek academic accommodations without having documentation of a diagnosed condition but must provide information from a physician that a diagnosis is under investigation.

3. Temporary Accommodations

Not all forms of mental illness represent lifelong conditions. Some mental health conditions and their associated functional limitations are temporary. The need for accommodation applies in these situations in the same way as with permanent disabilities.

4. Retroactive Accommodations

All Ontario Human Rights Code related requests for accommodation are considered as they occur. Accommodations requests are accepted as being made in good faith, unless there are legitimate reasons for acting otherwise. Each case is examined on the unique circumstances and the student's individual needs. Students can request such an accommodation if they do not successfully meet the course evaluation criteria to obtain a passing grade. These requests will be considered with the assumption that they are legitimate.

The time frame for making such a request is not limitless. It is the student's responsibility to contact the Office for Students with Disabilities (Glenn Crombie Centre for Student Support) at his/her next, best opportunity to explain his/her failure to meet performance expectations. It is expected that this should, except in most unusual circumstances, occur within 21 days of the posting of final semester grades as outlined in the Grade Appeal Policy or sooner for tests and deadlines that occur throughout the semester. Documentation from a Regulated Health Care Professional about functional limitations that impacted on academic performance is required to support the request.

Because the decisions regarding accommodation may affect a student's progress in an ongoing course of study, they must be made in a timely manner. In the meantime, the College will implement an accommodation until a final decision has been made based on submission of the required medical documentation.

At the College's discretion, a grade received for any examination, test or assignment completed under the conditions of an interim accommodation may, upon receipt of medical documentation



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or a final decision regarding an appeal, be reverted to the grade originally achieved.

5. Communication of Accommodation Needs to Faculty

Students are not required to share disability related information with their professors to receive academic accommodations and it is not appropriate for faculty or staff outside the OSD to request such information. Providing accommodation related information about a student's functional limitation(s) is the responsibility of the OSD.

6. Mental Health Education

Cambrian College is committed to supporting faculty members to assist students requiring academic accommodations through the provision of mental health education in three key areas: general mental health awareness; information on interacting with a student who appears to have a mental health-related issue that is interfering with his/her studies; understanding its role in the academic accommodation process, including responsibilities under the OHR Code.

7. Accommodation Appeal Process

The OSD, students and professors each have responsibilities in the accommodation and appeal process. In the event that an accommodation is not meeting the needs of a student, it is reviewed and potentially modified based on the student's experience. Where an accommodation will cause undue hardship or is not an appropriate accommodation, a next-best solution is worked out cooperatively. When this mechanism fails, an Accommodations Appeal Committee is struck and includes the student, a representative from the OSD, a faculty member and the Dean of the department.

The purpose of the accommodation appeal process is not intended for the appeal of a decision to deny a retroactive accommodation.

Responsibilities and Accountability

Student:

- Notify the Office for Students with Disabilities about their need to request an accommodation at the earliest opportunity and ideally prior to its need, but the request may also be made retroactively.
- Submit the required medical documentation forms, provided by the Disability Advisor, to the Office for Students with Disabilities
- Participation in meetings with faculty, and the Disability Advisor as may be required, to cooperatively determine the accommodation
- Follow the guidelines for a Retroactive Accommodations Appeal in the event of a disagreement on the retroactive application of an accommodation.

Disability Advisor:

- Meet with the student requesting an accommodation, including a retroactive accommodation
- Review the process with the student
- Provide the student with a medical documentation form



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- Issue a memo to the Registrar, professor and Dean of the department advising them that a retroactive accommodation is requested
- Receive the completed medical documentation form from the student or their physician
- Meet with the student, and the faculty as required, to discuss the retroactive accommodation

Faculty

- Redirect students requesting an accommodation, including a retroactive accommodation, to the Office for Students with Disabilities to meet with a Disability Advisor
- Participate in the retroactive accommodation process

Dean

- Receive information about student requests for accommodation, including retroactive accommodations
- Participate in the appeal process for accommodations
- Direct grade appeals from students with a mental health disability to the Office for Students with Disabilities

Registrar

- Receive information about student requests for accommodation, including retroactive accommodations
- Direct grade appeals from students with a temporary or permanent mental health disability to the Office for Students with Disabilities
- Where applicable, post grades from retroactive evaluations once medical documentation is received by the Office for Students with Disabilities verifying the status of the student

Students' Administrative Council

- Provide support, at the request of the student, by reviewing relevant policies and procedures with him/her, attending meetings

Related Procedures

- Retroactive Accommodation Process
- Medical Documentation Form
- Retroactive Accommodation Memo
- Medical Verification Memo
- Accommodations Appeal Procedure

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Related Policies

Existing Internal Policies

- Academic Grievance Policy
- Attendance Policy
- Code of Conduct
- Grade Review Appeal Policy
- Promotion, Graduation and Convocation Policy
- Students' Rights and Responsibilities

External Directives

- Accessibility for Ontarians with Disabilities Act, 2005 (AODA)
- Ontario Human Rights Code, 1962
- OHRC Education and Disability: Human Rights Issues in Ontario's Education System, July 2002
- OHRC Guidelines on Accessible Education, Revised December 2009
- OHRC The opportunity to succeed: Achieving barrier-free education for students with disabilities
- OHRC Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions, January 2014
- OHRC Policy and Guidelines on Disability and the Duty to Accommodate, Revised December 2009
- The Personal Information Protection and Electronic Documents Act (PIPEDA), amended June 2015
- Personal Health Information Protection Act (PHIPA), amended 2010