

3.1.3 Examples of disabilities include paralysis and immobility, vision or hearing impairment, brain injury, diabetes, epilepsy, blood borne pathogens, anxiety and mood disorders, addiction, attention deficit hyperactivity disorder, autism spectrum disorders, and specific learning disorders.

3.2 Accommodation

3.2.1 Accommodations are adjustments to the learning and working environment that permit people with disabilities to have equal opportunities to succeed, and to access equal benefits of education and employment. Accommodations serve to remove the barriers to achievement brought on by disability but do not change or lower the standards that a resident is required to meet.

3.3 Discrimination

3.3.1 Discrimination occurs when an individual experiences an adverse impact where a characteristic protected by the Human Rights Code (e.g. disability) was a factor. Intent is legally irrelevant for establishing that discrimination occurred. Discrimination can be direct, for example excluding a person with a disability from a vital component of the training program. Discrimination can also be subtle, for example excluding applicants on the basis of gaps in work history that may signal the presence of a disability.

4.0 Procedures

4.1 Duty to Accommodate

4.1.1 NOSM has a legal duty to accommodate the needs of residents with disabilities. The duty to accommodate is established by the Ontario Human Rights Code and upheld by the Ontario Human Rights Commission. The purpose of the duty to accommodate is to ensure that persons who are otherwise fit to work are not unfairly excluded where working conditions can be adjusted without undue hardship [Supreme Court of Canada].

4.2.1 The duty to accommodate applies to NOSM Postgraduate Medical Education in three ways. First, as an academic institution, NOSM provides a service to residents in the form of education. Second, although residents' working conditions are directed by a bipartite collective agreement with the Council of Academic Hospitals of Ontario, NOSM serves as the de facto employer through supervision, prescription of day-to-day job duties, establishment of employment standards, and performance assessment. Third, NOSM serves as a provider of housing to some residents.

4.3.1 The duty to accommodate compels the Postgraduate Medical Education Office, the Residency Programs and the teaching sites (hospitals, clinics, family health teams etc.) to respond to individual requirements for accommodation. The obligation expands

beyond individual requests to inclusive policy design and the cultivation of a broader climate of equal opportunity for residents.

4.2 Confirmation of Disability

4.2.1 Residents requesting accommodations will be required to submit confirmation of disability to the Postgraduate Wellness Lead Clinician. A letter from a treating physician or licensed healthcare professional will be considered acceptable verification.

4.3 Accommodations

4.3.1 Accommodations are designed to respond to a person's individualized needs, respect his or her dignity, and allow for full integration and participation in the working and learning environment [OHRC]. The duty to accommodate requires that the most appropriate accommodation be determined and provided, unless this causes undue hardship to the employer or service provider.

4.3.2 NOSM will respond to individual requirements for accommodations according to these principles. In the NOSM Postgraduate environment, accommodations may include but are not limited to:

- Ensuring accessible learning and work spaces
- Presenting curriculum using alternative methods of communication
- Allowing a flexible work schedule
- Arranging for alternative work or modified job duties
- Implementing a graduated return to work after a prolonged absence
- Providing specialized adaptation or assistive devices and technology
- Providing additional training
- Adjusting resident assessment tools
- Considering disability as a mitigating factor when addressing behaviour that would otherwise warrant imposition of sanctions
- Lengthening the training period

4.3.3 Accommodations will normally require that NOSM collaborate with affiliated hospitals and clinical service providers.

4.4 Essential Duties

4.4.1 Accommodations will not be established if they interfere with the essential duties of work and training.

- Residents requiring accommodations are not exempt from performing the job duties that fulfill the terms of their employment contract.
- Neither the disability nor the required accommodations will compromise patient safety or the quality of patient care.
- Accommodations will not unduly affect the job duties of colleagues or supervisors.
- Accommodations do not alter or lower the rigorous academic standards of NOSM post-graduate programs. Residents requiring accommodations must still demonstrate the competencies required for successful completion of training.

4.4.2 Accommodations are often misinterpreted as lowering academic or employment standards. For example, a resident may be allowed to step away from rounds to attend to medical needs such as testing blood sugar, another resident may be granted access to pre-recorded lectures, and another may be permitted to demonstrate competency in an oral interview rather than a multiple choice test. However, these do not interfere with the essential duties of employment or education.

4.4.3 Where a disagreement exists regarding the impact of an accommodation on academic or employment standards the matter will be referred by the Wellness Lead Clinician (WLC) to the Office of Equity and Quality and/or Human Resources.

4.5 Undue Hardship

4.5.1 NOSM has a duty to provide accommodations to residents to the point of undue hardship. The following may be considered undue hardship:

- Additional cost that compromises the viability of the program
- Compromise of the health and or safety of the resident with the disability, patients, colleagues, or supervisors
- Substantial interference with the rights of colleagues

4.5.2 Inconvenience, preference and modest cost are not valid considerations in assessing whether an accommodation would cause undue hardship.'

4.5.3 Where a disagreement exists regarding the degree of hardship, the matter will be referred by the WLC to the Office of Equity and Quality and/or Human Resources.

4.6 Procedure for Establishing and Revising Accommodations

4.6.1 The resident contacts the WLC to request accommodation.

- If the referral instead originates from a supervisor or program, a treating healthcare provider, or the Physician Health program, the WLC will contact the resident to confirm the request for accommodation.
- If the resident is a former NOSM student with known accommodations, the Learner Affairs Office will obtain consent from resident to forward the request to the WLC.

4.6.2 The resident meets with the WLC to discuss the details of the request, and review the accommodations policy. The WLC requests confirmatory documentation of disability from a health care professional.

4.6.3 Upon receipt of documentation, the WLC drafts the accommodation plan in a letter and reviews it with the resident. The resident retains the right to involve a representative of the bargaining agent (PARO) in the development of the accommodation plan. If necessary, the accommodation plan itself may be formatted in such a way to account for the disability.

4.6.4 The WLC meets with the Program Director to discuss the request for accommodation and review the plan. The Program Director alerts the WLC to any proposed accommodations that would cause undue hardship or are incompatible with the essential duties of training.

- If mutually agreeable, the program Director and resident sign off on the finalized letter and a copy is provided to the PG Dean.
- If the accommodation is denied, the decision will be communicated to the resident in writing along with the grounds for refusal.
- Disagreements that remain irreconcilable following mediation by the WLC are then referred to the Office of Equity for consultation.

4.6.5 The Program Director and Program Coordinator implement accommodations in collaboration with the resident, program manager and others on need-to-know basis. The WLC and PG Dean are available to provide assistance during this process.

4.6.6 WLC reviews need for accommodations with resident every 3-6 months or sooner as needed. Additional documentation will be required if the nature of disability changes substantively, and a new accommodation letter will be drafted.

4.7 Confidentiality

4.7.1 Residents' personal health information will be treated confidentially by the Wellness Lead Clinician and will not be disclosed without explicit consent, unless it is determined that the disability presents a credible threat to the safety of the resident or others. Personal health information is stored on a secure confidential server that can

be accessed only by the WLC and the Wellness Program Coordinator. The Postgraduate Medical Education Coordinator has access in emergency situations.

4.7.2 Only the required accommodations, and not the nature of the disability, will be disclosed to the Program Director. The Program Director may then disclose the accommodations with others only on a need-to-know basis. For example, the requirement for an alternative call schedule must be shared with the individual responsible for scheduling. As another example, a faculty preceptor who performs exposure-prone procedures must be informed that the resident under his or her supervision is restricted from performing them.

4.7.3 Suspensions, dismissals, practice restrictions and leaves of absence due to professional misconduct, incompetence or incapacity are reported to the CPSO as per section 85.5 of the Registered Health Professionals Act. The Postgraduate Medical Education Office reports leaves to the CPSO but not the reason for the leave.

4.8 Return to Training

4.8.1 Residents on extended leave from training for reason of disability generally have the right to return to their original position and will be re-enrolled in the postgraduate program if the essential duties of the program can be fulfilled without undue hardship. There is no defined allowable duration of leave; rather, duration is factored into consideration of hardship.

4.8.2 A period of reintegration will be the usual procedure after an extended leave in order to promote successful return to training. During this period, time on duty will not contribute to either promotion or formal assessment although the resident will receive regular written feedback. Temporary accommodations will be considered especially in relation to duty hours and work intensity. For this process, the "Procedure for Establishing and Revising Accommodations" will be employed as described above.

4.9 Incapacity

4.9.1 Disabilities may exist that are incompatible with dispensation of job duties and with successful completion of residency training. The right to be free from discrimination is not infringed if the resident with a disability is incapable of performing or fulfilling the essential duties of employment or education [OHRC]. For example, a severe visual impairment is not compatible with training in radiology, and restricted mobility of the hands is not compatible with training in surgical disciplines.

4.9.2 Incapacity cannot be assumed. There must be a substantive factual foundation to support the conclusion that a resident cannot meet an essential requirement of a program.

- 4.9.3 The NOSM Postgraduate Medical Education Office may recommend an evaluation by an external medical expert to determine if, and the methods by which, accommodations can be realized without interfering with essential duties.
- 4.9.4 A finding of incapacity will be communicated in writing to the resident, or if required, in an alternative format in consideration of the disability. Disagreements are referred to the Office of Equity for consultation.
- 4.9.5 The resident retains the right to involve a representative of the bargaining agent (PARO) at any stage of the accommodations process. NOSM will provide guidance and reasonable supports to residents who can no longer remain in their program even with accommodation, such as career counseling or help with seeking a transfer to another residency program if possible.

5.0 Getting Help

Queries regarding interpretations of this document should be directed to:

Northern Ontario School of Medicine, Director of Postgraduate Medical Education. (807) 766-7503.

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Version	Date	Authors/Comments
1.0	2018 05 10	Approved by NOSM Postgraduate Education Committee.
2.0	2018 07 23	Reformatted in new policy template.
3.0	2021 05 13	PGMEC approved a one-year extension on the current policy.