



### APPLICATION

15.1 This policy applies to all Staff of the Non-Public Funds, Canadian Forces (NPF) employees.

### APPROVAL AUTHORITY

Chief Human Resources Officer (CHRO)

### OPI

Director Business Planning and Transition (DBPT)

### ENQUIRIES

15.2 All inquiries on the interpretation and application of this policy are to be directed to the HRM or the RMHR and when required, forwarded to the Office of Primary Interest (OPI).

### DEFINITIONS

15.3 The following vocabulary is used throughout this policy:

- a. Barriers (Obstacles): means physical (building design), attitudinal (stereotypes or prejudices) or systemic barriers. Systemic barriers in the workplace are formal or informal policies, practices or rules which, when applied in the same way to everyone, may have the effect of unfairly excluding or restricting the participation of some individuals, e.g., a work schedule that conflicts with religious observance days.
- b. Bona fide occupational requirement or BFOR (Exigence professionnelle justifiée [EPJ]): is a standard or rule that is necessary to carry out the proper or efficient functions of a job.
- c. Employment Accommodation (Mesures d'apaptation au travail): means both the reasonable removal of employment related barriers that have or may have an adverse effect on current and prospective employees protected by the *Canadian Human Rights Act* and the reasonable adjustments made in the workplace that respond to the employment-related needs of these individuals.
- d. Undue hardship (Contrainte excessive): means the limit of an employer's requirement to accommodate an employee protected by the *Canadian Human Rights Act*. Three factors – health, safety and cost must be considered when determining if an accommodation creates an undue hardship.

### POLICY PURPOSE

15.4 The objective of this policy is to provide a framework for the application of employment accommodation.

## GENERAL POLICY

- 15.5 The organization will endeavour to achieve a barrier-free workplace by providing employment accommodation when required for NPF employees and prospective NPF employees, up to the point of undue hardship for the organization.
- 15.6 The organization has the right and responsibility to ensure that employment accommodation results in an employee performing meaningful and productive work for the organization. The organization will expect competent performance from an employee once that employee has been accommodated.
- 15.7 Employment accommodation is intended to enable an employee to perform the essential duties of a particular job. Where possible, this will be within the employee's substantive position.

## DUTY TO ACCOMMODATE

- 15.8 The duty to accommodate refers to the organization's obligation to take appropriate steps to identify and eliminate barriers to employees, prospective employees or clients resulting from a policy, rule, practice that has or may have an adverse impact on them.

## EMPLOYMENT ACCOMMODATION

- 15.9 Employment accommodation will be implemented in the workplace, when required, to address the needs of employees, to the point of undue hardship using the process described herein.
- 15.10 The need for a temporary or a permanent accommodation may arise at different stages:
  - a. during the recruitment and selection process;
  - b. at the beginning of employment; and/or
  - c. at any point throughout the employee's career.

## EMPLOYMENT ACCOMMODATION REQUESTS

- 15.11 Employees requiring employment accommodation are required to bring their needs to the attention of their manager as soon as possible. Employees may request an accommodation informally or submit a formal request to their supervisor/manager by completing the Employment Accommodation Request Form found at Annex A.
- 15.12 Employment accommodation requests must include:
  - a. type of employment accommodation requested (i.e., disability, religion);
  - b. sufficient appropriate documentation to support the employment accommodation request, clarifying needs, restrictions and/or limitations, as required.
- 15.13 When requesting an employment accommodation, employees are encouraged to provide suggestions of reasonable accommodation measures that the organization could implement. When dealing with accommodation for disability reasons, the employee's medical practitioners are also encouraged to provide recommendations for reasonable accommodation measures that the organization could implement.

- 15.14 The manager, in consultation with the HRM, will conduct an objective review of the employment accommodation request, the supporting documentation and any suggestions or recommendations offered by the employee and/or the employee's medical practitioners, if applicable. The review will determine possible employment accommodation measures and how these should be managed from an employment perspective. The following shall be considered:
- a. needs;
  - b. barriers to performance or participation;
  - c. employment accommodation objectives;
  - d. interim reasonable employment accommodation measures, if necessary;
  - e. reasonable employment accommodation options, considering the limits of undue hardship;
  - f. reasonable employment accommodation plan;
  - g. employment accommodation training, if required; and
  - h. follow-up and evaluation, as required.
- 15.15 Where it can be demonstrated that the standard or rule based on a Bona Fide Occupational Requirement creates a distinction or exclusion related to one of the prohibited grounds in the Relevant Legislation, the Employer must demonstrate that:
- a. the underlying purpose of the standard or rule is rationally connected to the performance of the job;
  - b. the standard or rule was adopted in an honest and good faith belief that it was necessary to accomplish the Employer's purpose; and
  - c. the standard or rule is reasonably necessary for the Employer to accomplish its purpose.
- 15.16 Employment accommodation may be accomplished through the modified scheduling of work or by making some adjustments to work procedures, routine practices or policies. Certain duties of the work unit may be reallocated to provide meaningful and productive work within an employee's restrictions.
- 15.17 Where an accommodated employee has worked for a portion of a shift and no further work is available due to the employment accommodation, he/she will only be paid for the hours worked. For the balance of the scheduled hours, the employee will be entitled to use either vacation leave or leave without pay, subject to the provisions of the Leave Policy. In cases of a disability, the employee may also be entitled to use sick leave for the balance of the scheduled hours, subject to provisions of the Leave Policy.
- 15.18 Where an employee is assigned to modified duties as an employment accommodation for a disability which is considered temporary, the assigned duties will be within a rehabilitation/return to work plan toward reaching full capacity at a specified future date.
- 15.19 Where the accommodation is not possible within the employee's substantive position:
- a. employment accommodation may result in modification or reassignment of duties, or assignment to another vacant position including to duties or a position at a different rate of pay. Where the employment accommodation for the employee results in a significant reallocation of work duties to the extent that the job has changed, the position will be re-evaluated. Managers may refer to the Compensation Policy for further details pertaining to the job evaluation action;
  - b. it is not required nor expected to create a new or additional job, where one did not previously exist to accommodate an employee; and
  - c. it is not required nor expected to increase the number of employees to compensate for an employee who is unable to perform the full duties of a job.

- 15.20 The factors which will be considered in determining whether the employee will be placed in an alternate position include whether:
- a. the individual can perform the essential duties of the alternate position;
  - b. the individual is currently qualified for the alternate position;
  - c. placing the individual in the alternate position would result in undue hardship to the organization; and/or
  - d. it is a reasonable employment accommodation measure to transfer the employee to the alternate position.

## FUNDING FOR EMPLOYMENT ACCOMMODATION

- 15.21 Expenses related to employment accommodation are funded as follows:
- a. minor employment accommodation requirements (i.e., desk and chair to accommodate a disability) will be funded by the applicable Division's budget; and
  - b. major employment accommodation requirements (i.e., modification to the building structure or ventilation system) should be submitted for payment either to the Public for Public buildings or Non-Public Funds for specialty interest buildings, up to the point of undue hardship. The manager with the appropriate delegated authority is responsible to inform the building authorities and Base/Wing Safety Officer of major employment accommodation requirements.

## REFUSING EMPLOYMENT ACCOMMODATION

- 15.22 The organization may refuse an employment accommodation request if:
- a. it is not reasonably necessary or adequately substantiated;
  - b. other reasonable alternatives are available and have been proposed;
  - c. a rule, standard or practice is based on a BFOR and any employment accommodation or changes to the standard or rule would create an undue hardship;
  - d. the employment accommodation would jeopardize the health, safety or wellbeing of the employee or others;
  - e. the employment accommodation would be financially prohibitive, or logistically impractical; and/or
  - f. the employment accommodation would prevent the organization from being able to meet its operational requirements.
- 15.23 Before refusing to provide employment accommodation, the organization will ensure that all reasonable and productive alternatives, short of undue hardship, are considered, explored, and fully documented.
- 15.24 The application of this policy does not constitute a guarantee of continued employment where employment accommodation is not possible or has reached the point of undue hardship.

## RECORDS

- 15.25 Employment accommodation requests shall be kept in the employee's file; however, any information related to medical records shall be kept in a separate file. The evaluation of the employment accommodation request will be kept confidential and will only be disclosed to other people within the organization as needed to implement the employment accommodation.

- 15.26 Temporary and long-term employment accommodation arrangements will be periodically reevaluated to determine whether further adjustments or different arrangements are required or appropriate.
- 15.27 Accommodated employees must advise their manager as soon as possible of any change in circumstance that could affect the employment accommodation.

## PROSPECTIVE EMPLOYEES

- 15.28 Requests for accommodation may occur during the recruitment and selection process from a prospective employee in which case an Employment Accommodation Request Form will not be required.
- 15.29 The organization will provide equality of opportunity to candidates who possess the requisite skills to perform the essential duties of a job. Candidates must be assessed solely in terms of the qualifications required for the job and their ability to perform the job.
- 15.30 Candidates must be treated with dignity and respect throughout a fair and equitable selection process. The local Human Resources Office will assist in arranging reasonable and appropriate accommodation (e.g., documents in Braille, wheelchair accessible interview room).
- 15.31 Accommodation measures must not alter the nature or level of qualification assessed (i.e. bona fide occupational requirement) to ensure that the selection is merit based.

## COMPLAINTS

- 15.32 NPF employees, as well as prospective NPF employees, have the right to file a complaint in the event of a denied or disputed employment accommodation request.
- 15.33 All formal or informal complaints are encouraged to be handled at the lowest possible level and to the satisfaction of both the complainant and the respondent.
- 15.34 Employees' complaints are handled as follows:
- a. Informal: discuss with the responsible manager or supervisor, as applicable; or
  - b. Formal: Contact the Diversity and Equity Office to review the complaint and seek advice to correct the situation, or
  - c. Formal: File a complaint directly to the Canadian Human Rights Commission.
- 15.35 Prospective employees' complaints from are handled as follows:
- a. Informal: Contact the Diversity and Equity Office to review the complaint and seek advice to correct the situation, or
  - b. Formal: File a complaint directly to the Canadian Human Rights Commission.

## AUTHORITIES

- 15.36 The levels of accountability are as follows:
- a. Division Heads are responsible for:
    - i. demonstrating their commitment and encouraging their staff to support this policy, and
    - ii. creating and maintaining workplaces in which existing barriers are removed, no new barriers are introduced and employment accommodation is supported;
  - b. Managers are responsible for:
    - i. ensuring that employees are aware of the right to request employment accommodation and the processes that facilitate employment accommodation,

- ii. managing the employment accommodation process by responding in a timely, confidential manner, encouraging cooperation, considering all options, resolving disagreements, and documenting, monitoring and evaluating employment accommodation solutions,
- iii. implementing and overseeing the employment accommodation and facilitating the integration of the accommodated employee to ensure a supportive work environment, and
- iv. re-evaluating the employment accommodation periodically;
- c. Unions are responsible for providing guidance to their members;
- d. Employees requiring employment accommodation are responsible for:
  - i. managing their health care as prescribed by treating physicians and health care professionals, if applicable,
  - ii. requesting employment accommodation including identification, where possible, of the types of employment accommodation that may be considered appropriate,
  - iii. providing documentation as required to support the employment accommodation request, clarifying restrictions,
  - iv. assisting and cooperating in their employment accommodation including the obligation to accept reasonable employment accommodation, and
  - v. informing managers when the requirement for employment accommodation has changed or is no longer required and returning all technical aids, equipment and support materials to the organization in a timely manner;
- e. All employees are responsible for demonstrating a positive, proactive and supportive approach to employment accommodation;
- f. HRMs and RMHRs are responsible for providing guidance to managers on the application of this policy;
- g. Diversity and Equity Office is responsible for:
  - i. providing guidance to HR personnel and managers,
  - ii. developing policies, practices and procedures concerning employment accommodation, and.
  - iii. managing employment accommodation complaints and ensuring that all complaints are treated as confidential (Protected B).

## REFERENCES

15.37 The following legislation and regulations are relevant to the content of this policy:

- *Access to Information Act*
- *Canadian Charter of Rights and Freedoms*
- *Canadian Human Rights Act*
- *Employment Equity Act*
- *Privacy Act*

## ANNEX

15.38 The annex listed below is part of the present policy:

- [Annex A – Employment Accommodation Request Form](#)

## REFERENCES

15.39 The following document should be read in conjunction with this policy:

- [Employment Accommodation Guide for Managers](#)



**EMPLOYMENT ACCOMMODATION REQUEST**

HRPOL 15 – ANNEX A

**Protected B (when completed)**

SECTION A - EMPLOYEE		
Name:	Employee No.:	Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Casual <input type="checkbox"/>
Position:	Division/Location:	Work Phone No:
Type of accommodation:		
Describe the accommodation solution required to support your ability to perform the duties of your position, if appropriate.		
<input type="checkbox"/> Supporting documentation is attached <input type="checkbox"/> Professional assessment has been requested.		
Certain situations may require disclosure of information and failure to provide consent may limit options to be considered. Any disclosure with respect to an employee's specific need for accommodation will be consistent with the requirements of the <i>Privacy Act</i> .		
<input type="checkbox"/> Yes, I consent to disclose information <input type="checkbox"/> No I do not consent		
_____ Employee's Signature		
_____ Date		
<b>Reminder:</b> The <b>Employment Equity Self-Identification Survey</b> identifies employees as members of a designated group on a voluntary and confidential basis. The form may be completed if you wish to change any of the information submitted previously. The form is available at your local HR Office or via the HR Website - Diversity and Equity Page.		

SECTION B - MANAGER	
<input type="checkbox"/> Request for accommodation is approved up to the point of undue hardship (describe employment accommodation, date, equipment/service provided/supplier name).	
Total cost: _____ GL for applicable Division's budget: _____	
<input type="checkbox"/> Minor employment accommodation requirements	
<input type="checkbox"/> Major employment accommodation requirements should be submitted for payment by Public funds up to the point of undue hardship.	
<input type="checkbox"/> Request for accommodation is denied for the following reason(s):	
_____ Manager's Name and Signature	
_____ Date	

Original- Employee File, Copy – Diversity and Equity Office