

## Glossary of Key Terms

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The World Health Organization (WHO) noted that “Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations” (para. 1). However, disability is “not just a health problem. It is a complex phenomenon, reflecting the interaction between features of a person’s body and features of the society in which he or she lives. Overcoming the difficulties faced by people with disabilities requires interventions to remove environmental and social barriers” (WHO, 2013, para. 2).

The Ontario Human Rights Code (OHRC) defines “**disability**” as:

1. “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 impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
2. A condition of mental impairment or a developmental disability,
3. A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
4. A mental disorder, or
5. An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997” (OHRC, 2000).

The OHRC (2000) also highlighted that “the nature or degree of certain disabilities might render them ‘non-evident’ to others. Chronic fatigue syndrome and back pain, for example, are not apparent conditions. Other disabilities might remain hidden because they are episodic. Epilepsy is one example. Similarly, environmental sensitivities can flare up from one day to the next, resulting in significant impairment to a person’s health and capacity to function, while at other times, this disability may be entirely non-evident.... Other disabilities may become apparent based on the nature of the interaction, such as when there is a need for oral communication with a person who is deaf, or there is a need for written communication with a person who has a learning disability. A disability might become apparent over time through extended interaction. It might only become known when a disability accommodation is requested, or the

disability might remain 'non-evident' because the individual chooses not to divulge it for personal reasons. Regardless of whether a disability is evident or non-evident, a great deal of discrimination faced by persons with disabilities is underpinned by social constructs of 'normality' which in turn tend to reinforce obstacles to integration rather than encourage ways to ensure full participation. Because these disabilities are not 'seen,' many of them are not well understood in society. This can lead to stereotypes, stigma and prejudice" (p. 7-8).

**Accommodation** "is a means of preventing and removing barriers that impede students with disabilities from participating fully in the educational environment in a way that is responsive to their own unique circumstances" (OHRC, 2004, p.7). An "appropriate" accommodation will result "in equal opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges enjoyed by others, or if it is proposed or adopted for the purpose of achieving equal opportunity, and meets the student's disability-related needs" (OHRC, 2004, p.21).

The "**duty to accommodate**" requires that accommodation be provided in a manner that "most respects the dignity of the person, if to do so does not create undue hardship" (OHRC, 2000, p. 10).

The OHRC (2004) emphasized that "**maintaining confidentiality** is an important procedural component of the duty to accommodate" (p. 10). Only designated personnel should have access to personal information that directly or indirectly identifies that a student has a disability. This information should be "away from the student's academic record, to protect the student's privacy" (OHRC, 2004, p. 19). This is to protect the institution from allegations of discrimination, and the student from potential discriminatory practices (OHRC, 2004, p.19).

### **Limits of Accommodation**

Under the Ontario Human Rights Code (2004), "every student with a disability is entitled to accommodation up to the point of **undue hardship**." Only three elements may be considered in assessing whether an accommodation would cause undue hardship: cost; outside sources of funding, if any; and health and safety requirements, if any (OHRC, 2004, p. 28). The evidence "required to prove undue hardship must be objective, real, direct and, in the case of cost, quantifiable" (OHRC, 2000, p. 24). The institution cannot argue undue hardship based on: business inconvenience; employee morale; third-party preference; and collective agreements or contracts (OHRC, 2000, p. 22).

## **Essential vs. non-essential course and program requirements, and the potential for accommodation**

Rose (2009) highlighted the **essential requirements** of a course or program “include (but are not necessarily limited to), the knowledge and skills that must be acquired or demonstrated in order for a student to successfully meet the learning objectives of that course or program” (p. 10). Oakley, Parsons, and Wideman (2012) stated the factors in identifying or defining essential requirements of a course include a:

1. “Skill that must be necessarily demonstrated in order to meet the objectives of a course; and,
2. Skill that must be demonstrated in a prescribed manner.

In other words, an essential requirement is an important learning outcome” (p. 5).

The Council of Ontario Universities (2011) states that “learning outcomes are used to align individual courses with degree level expectations... [and] define what a student should know, and be able to do, after successful completion of an assignment, activity, class, course or program” (p. 7).

Although compromising the essential requirements of a course or program can be grounds for denying accommodation requests, the institution must be able to demonstrate how this would happen. Accommodations are meant to level the playing field “and are not to provide an unfair academic advantage over students without disabilities” (NEADS, 2012, p.6). The appropriateness of an educational accommodation should be assessed with “the essential duties or requirements attending the exercise” in mind (OHRC, 2004).

Appropriate accommodations will enable students to meet the essential requirements of the program successfully, “with no alteration in standards or outcomes, although the manner in which the student demonstrates mastery, knowledge and skills may be altered” (OHRC, 2004, p. 24). This would give all students “equal opportunities to enjoy the same level of benefits and privileges and meet the requirements... without the risk of compromising academic integrity” (OHRC, 2004).

## References

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