

ALGONQUIN COLLEGE DIRECTIVE	NO. OF PAGES 7	DIRECTIVE NO. E4
	ORIGINATOR Vice President, Student Services	
	APPROVED BY President's Executive Committee	
TITLE STUDENTS WITH DISABILITIES	EFFECTIVE DATE 2010.01.27	REPLACES 2002.06.26

PREAMBLE

Ontario's Colleges of Applied Arts and Technology equalize access and opportunities that shape the educational experiences of students with disabilities to learn and demonstrate their competence.

This philosophy and mission must be accomplished through direct assistance to students, encouragement of independence and self advocacy, maintenance of an accessible physical environment, and the assurance of a supportive environment so that students may achieve their educational objectives.

Legislation clearly indicates the obligations of colleges to ensure access to programs and services regardless of the nature, degree, or duration of disability. The Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code protect citizens from discrimination because of disability. Consequently, the College must responsibly anticipate and advocate for the needs of students with disabilities within the College environment.

Contents of this directive are derived from statements within the Committee of Presidents' Task Force Report (1986) (see Appendix A); input from the College Committee on Special Needs (1993), representatives, students, and other significant constituents of the college system; as well as the Accessibility for Ontarians with Disabilities Act (2005).

POLICY

1. Organization and Administration

- 1.1 The Centre for Students with Disabilities is responsible for the provision of services for students with disabilities and fulfills the obligations as described in the legislative initiatives to provide "fair and equal access". The purposes of the services are two-fold:

- (i) To provide supports that improve the educational development of students with disabilities;
- (ii) To eliminate barriers to accessibility, both physical and academic, through consultation and professional development activities for faculty and staff.

2. Human Resources

- 2.1 The College will employ appropriately skilled and knowledgeable professional and support staff who will provide services to students with disabilities and consultations to faculty and staff regarding the needs of students with disabilities, maintaining objectivity and ethical practices among relationships.

3. Access and Services

- 3.1 The responsibility to accommodate students with disabilities is shared by all employees of the College.
- 3.2 Students with disabilities will have equal access to all institutional programs and services subject to meeting minimum program requirements.
- 3.3 All new College policies, and those revised subsequent to approval of this policy, should respect the dignity of persons with disabilities, take into consideration the Accessibility for Ontarians with Disabilities Act 2005, and encourage the principles of universal access design.
- 3.4 Direct assistance and accommodations are to be provided to individual students with disabilities.
- 3.5 The Centre for Students with Disabilities will provide advance notice, where possible, when their facilities or services are temporarily disrupted.

4. DEFINITIONS

- 4.1 **Disabilities:** Refers to those conditions as defined within the Human Rights Code (Revised Statutes of Ontario; 1990, Chapter H.19; April 1994), as they apply to the College environment that require accommodations as the means of compensation, to minimize the effects of the disability.
- 4.2 **Accommodations:** The adjustments, adaptations, assistive devices, and/or technical aids required by a student with a disability(ies) for the entrance and/or completion of a course or program offered by the College. These extend distinctly beyond a standard level of service or assistance provided for the non-disabled population, and concurrently, they are those which relate directly to the specific disability to be accommodated. Further,

they are distinct from the rights and obligations of the College's criteria for admission, and are distinct from academic support models designed for all students. Some examples of accommodations available are: note takers, interpreters, reduced course load, testing aids, adapted schedules, referrals for diagnostic assessments, extended time for tests and exams, FM systems, and alternative format materials.

- 4.3 **Self-Identification:** Students identify their disability or disabilities to staff in the Centre for Students with Disabilities. Self-identification is confidential and the release of personal information is subject to Section 39(2) of the Freedom of Information and Protection of Privacy Act.

PROCEDURES, ROLES AND RESPONSIBILITIES

5. Self-Identification

- 5.1 Students with disabilities are responsible for identifying their needs to the Centre for Students with Disabilities.
- 5.1.1 Each student requesting service is to have the opportunity of an interview that determines the disability and its effect on academic performance and participation in College life. Appropriate adaptations are then identified, and planning for the necessary accommodation(s) is completed.
- 5.1.2 Students are responsible for providing professional documentation that verifies the diagnosis of a disability.
- 5.1.3 Where no professional documentation is available to verify the presence of a disability, the Centre for Students with Disabilities will assist students in accessing documentation, or facilitate a referral to obtain professional documentation.
- 5.1.4 When a student is referred to professionals outside of the institution by the Centre for Students with Disabilities, the cost of such service must be borne by the student. The cost may be covered by the Bursary for Students with Disabilities, other bursaries, or sponsoring agencies.

6. Conditions and Requirements

- 6.1 Where a condition or requirement is imposed in relation to a College program or service, evidence must be provided by the program or service administrator that the condition or requirement is essential to that program

or service (e.g. attributing time limits to tests of knowledge).

6.2 Where a person is unable to meet with conditions or requirements because of a disability, the College must provide reasonable accommodation. (Accommodations are reasonable if they do not impose undue hardship to the College and do not alter program standards. See Appendix A.)

6.2.1 Reasonable accommodation can be made by adapting the conditions or requirements or by providing alternative ways for individuals to meet the conditions or requirements. Accommodations must be reasonable, individual, and not impose undue hardship to the College.

7. Admissions

7.1 Application information is to include information for applicants regarding services for students with disabilities to allow them to self-identify early in order to facilitate having appropriate accommodations in place at the start of the term.

7.2 Students with disabilities must meet program eligibility criteria and applicant selection criteria relevant to the program. They have the opportunity to be provided with reasonable accommodation in the admission and selection process.

7.2.1 Students with disabilities are to request accommodation for admissions testing by contacting the Centre for Students with Disabilities and providing the necessary documentation to support the request.

7.3 No greater onus of proof with respect to capacity or ability is to be required from students with disabilities than is ordinarily required from others.

7.4 Assessment of an individual for admission must be based on his or her present functional ability and cannot be influenced by expected deterioration.

7.5 There must not be a limit placed on the proportion or number of students with disabilities admitted to the College, programs and/or courses, unless undue hardship to the College can be demonstrated as required by the Ontario Human Rights Commission Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (2000).

8. Programs

8.1 Once admitted to the College, students with disabilities are deemed to be

capable of fulfilling the essential requirements of the program, if provided with reasonable accommodations and services.

8.2 Targeted programs that are regular programs either targeted specifically to persons with disabilities, or delivered separately, may be established only if accommodation in regular programs would create undue hardship to the College.

8.2.1 Targeted programs are appropriate when they are established to be the least restrictive for the student, when the result will be equally as effective as, or more effective, than the regular program. The necessity and effectiveness can be demonstrated and are based on individual assessments. Funding for targeted programs is to be derived from sources other than those of the Accessibility Fund for Students with Disabilities, Ministry of Training, Colleges and Universities.

8.3 Special programs that are targeted exclusively to students with disabilities may be implemented provided they meet the “special programs” definition in Section 13 (1) of the Ontario Human Rights Code.

8.3.1 Special programs are a mechanism to offset disadvantages experienced by students with disabilities. They are designed to relieve hardship and to assist in the achievement of equal opportunity. Funding for special programs is derived from sources other than those of the Accessibility Fund for Students with Disabilities, Ministry of Education and Training.

9. **Supports**

9.1 Plans outlining individualized accommodations are to be developed by disabilities counsellors for students with disabilities who self-identify and register with the Centre for Students with Disabilities, with a copy provided to the student.

9.1.2 The student is responsible for sharing the plan outlining individualized accommodations with appropriate faculty members.

9.1.3 Faculty members, with the support of staff from the Centre for Students with Disabilities, are to facilitate the implementation of accommodation plans.

9.1.4 Faculty members and staff of the Centre for Students with Disabilities are to work together to resolve any disagreement regarding the recommended accommodations. The recommended accommodations are to be provided until the disagreement is

resolved.

- 9.1.5 The Centre for Students with Disabilities feedback process is available to students who wish to address concerns with the provision of goods or services to students with disabilities.
- 9.1.6 The Academic Appeal process is available to students who wish a formal review of any disagreements regarding academic accommodation.
- 9.2 Students with disabilities who use a support person may bring that person with them to the College and to the classroom as described in the accommodation plan.
- 9.3 Individual and group counselling and advising of students with disabilities will be provided.
 - 9.3.1 Disability counselling services will address the unique needs of students with disabilities and particularly focus on the strategies needed to cope with, and succeed, in the College community.
- 9.4 Students with disabilities may be accompanied by their guide dog or service animal while at the College, except where excluded by law. Where a service animal is excluded by law, other measures are to be determined to assist the student.
- 9.5 Statistical reports derived from the self-identification process and data collection will be reported in aggregate format for the purposes of information and planning.
- 9.6 The Centre for Students with Disabilities is responsible for the dissemination of information to the College Community regarding the needs and legal rights of students with disabilities.
 - 9.6.1 Information regarding the availability of services for students with disabilities is to be included in all major College publications such as calendars, student handbooks, recruitment materials, websites, newsletters, and course outlines. All publications are to identify where students with disabilities can obtain accessibility information. This information is to be provided in an accessible format upon request.
- 9.7 The Centre for Students with Disabilities is responsible to provide professional development opportunities for College staff regarding the needs of students with disabilities.

RELATED DIRECTIVES

Harassment and Discrimination - A8
Special Allowances for Individual Students - E3
Student Complaints - E23
Academic Appeal - E15

(Original signed by)

President

Appendix A

PRINCIPLES

Committee of Presidents

Task Force Report (1986)

Appendix A

PREAMBLE

Ontario's college system recognizes its obligation to ensure that college programs and services are accessible to persons with handicaps, in accordance with the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code, and consistent with the implications of Bill 82 (The Education Amendment Act, 1980) for the college system. To that end, the following principles have been articulated to provide guidelines to colleges in establishing admission policies and procedures.

These principles have been developed on the basis of legal obligations articulated under the Charter and the code. Consistent with the language of the Code, the term "persons with handicaps" appears throughout the text.

Discussion

Section 15, the Equality Rights section, of the Canadian Charter of Rights and Freedoms protects citizens from discrimination by governments on the basis of mental or physical disability. The protections provided by the Charter apply to the colleges. The guarantee of equality under the Charter is similar to that set out in the Ontario Human Rights Code. The principles and terms used in this paper, therefore, are developed in reference to the Ontario Human Rights Code.

Section 1 of the Ontario Human Rights code stipulates that "Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of handicap."

The Ontario Human Rights Code explains in Section 9 that without discrimination "because of handicap" means: "for the reason that the person has or has had, or is believed to have or have had,

(i) 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, including diabetes mellitus, epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, muteness or speech impediment, or physical reliance on a guide dog or on a wheelchair or other remedial appliance or device,

(ii) a condition of mental retardation or impairment,

(iii) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language, or

(iv) a mental disorder;

The intended effect of these principles is to balance the rights of persons with

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handicaps with the right of colleges to manage their operations efficiently.

Each principle should be interpreted within the total context of the principles.

The determination of the extent and scope of the rights and obligations flowing from both the Charter and the Code is an ongoing process. The principles set out in this paper reflect those rights and obligations as they are understood to date.

PRINCIPLES

A. GENERAL

1. Equal Treatment

Persons with handicaps have the right of equality of opportunity to participate in college programs and services to the extent of their individual abilities.

Discussion

Equal treatment does not mean identical treatment. Equal treatment means meeting the individual and differentiated needs of persons with handicaps so that they have the same opportunity to achieve results as everyone else.

2. Conditions or Requirements

Where there is a condition or requirement imposed in relation to a college program or service, there must be evidence that the condition or requirement is relevant to the program or service.

3. Reasonable Accommodation

Where persons are unable to comply with conditions or requirements because of a handicap, the college must provide reasonable accommodation to the handicap. Reasonable accommodation can be made either by adapting the conditions or requirements or by providing alternative ways for individuals to meet the conditions or requirements.

Discussion

Reasonable accommodation is currently being interpreted to mean that there is a duty in two ways: The essential requirements should be adapted so that the individual can fulfill them; e.g., adjustments to regular programs or to admissions policies and procedures. The individual needs of persons with handicaps should be met by the college so that the individual can fulfill the essential requirements; e.g., physical alterations, provision of technical aids, support services, sign interpreters, scheduling of classes or examinations, etc.

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4. Undue Hardship

Accommodation is not reasonable if it imposes undue hardship. Undue hardship must be demonstrated objectively. Factors to consider include:

significant alteration of the fundamental nature of the program or service

substantial economic hardship

organizational inconvenience which has a substantial effect on the college due to disruption of operations

availability of persons with appropriate expertise

significant adverse impact on learning opportunities for other students

risk of safety hazard to other persons or property

Discussion

It is the opinion of the Ministry of the Attorney General that “while the cost of accommodation is a relevant consideration, it likely cannot be asserted as a defence to an equality claim in a vacuum. Before an accommodation can be denied on account of cost, a college would have to substantiate its financial concerns with evidence showing that no form of accommodation could be afforded.”

The individual is entitled to assume risk to himself or herself if he or she understands the nature and extent of that risk. Colleges may wish to implement a waiver of liability where the individual wishes to assume a personal safety risk.

5. Targeted Programs

a) "Regular" programs targeted specifically to persons with handicaps, or delivered separately, may be established only if accommodation in regular programs would create undue hardship.

b) "Special" programs targeted exclusively to persons with handicaps may be implemented provided they satisfy the requirements of "special programs" as defined in the Ontario Human Rights Code.

Discussion

A distinction must be made between “special programs” and “regular programs targeted specifically to persons with handicaps.”

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A regular program targeted specifically to persons with handicaps is a program which ordinarily is offered to the general student population (carpentry, for example) but has been established specifically for students with a handicap (a carpentry program for the deaf, for example).

For regular programs to be targeted specifically to persons with handicaps, it should be established that:

- accommodation in regular programs would create undue hardship
- the targeted program is the least restrictive for the student
- the results of the targeted program will be equally as effective as or more effective than the regular program
- the necessity and effectiveness of the targeted program can be demonstrated
- decisions are not based on generalizations regarding a particular group of persons with handicaps but rather on individual assessments

A special program is defined in Section 13 (1) of the Ontario Human Rights Code as a program that is:

"designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under Part I."

Generally, "special programs" are viewed as a mechanism to offset disadvantages experienced by students with handicaps. They are of an affirmative action or preferential nature. Examples of such programs would be those designed to enhance individual capacity to fulfill requirements for admission to regular programs or reserving extra seats in regular programs. Such programs, while they are desirable, are not obligatory.

It should be noted that short of undue hardship, colleges are obliged under the Charter and the Code to make reasonable accommodations to enable persons with handicaps to participate in regular programs. Reasonable accommodations are not viewed as "special programs" in this context. Examples of such accommodations are audio-braille services and physical accessibility.

It should be noted further that the establishment of targeted programs that are accessible to persons with handicaps does not discharge the college's obligations to make reasonable accommodations in regular programs and services.

6. Identification

Students with handicaps should be responsible for identifying their own needs given the following:

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a) The college must clearly communicate the mechanism through which accommodations will be made so that persons with handicaps will not feel that it is futile to self-identify.

b) Verification of the need may be requested, but only if the need is not reasonably apparent or if abuse is established as a problem.

B. ADMISSIONS

7. Eligibility and Selection Criteria

Program eligibility criteria and applicant selection criteria must be relevant to the program. Persons with handicaps must meet these criteria provided that reasonable accommodations have been made by the college in determining and applying these criteria.

Discussion:

This principle reflects the requirements of the new Ministry admission policy. In applying this policy to persons with handicaps, it must be recognized that equal treatment with respect to admissions does not guarantee admission for persons with handicaps. Colleges can admit whom they wish consistent with prevailing admissions policy providing they do it on non-discriminatory grounds.

Reasonable accommodations may be needed in applying the procedures for determining whether the applicant has aptitudes and skills appropriate to the program of instruction. For example, there may be alternative ways in which the applicant could fulfill the essential requirements of the program. Any reasonable method of fulfilling these requirements should be acceptable, short of undue hardship. It should be presumed that reasonable accommodations will be made in the program of instruction and elsewhere so that the student will be able to fulfill the requirements.

There is no onus on the college to attempt reasonable accommodations for an applicant with a handicap if the applicant is unable or unwilling to comply with the necessary requirements for reasons unrelated to the handicap.

8. Onus of Proof

No greater onus of proof with respect to capacity or ability should be required from an individual with a handicap than is required from others.

9. Assessment of Functional Ability

Assessment of ability to meet published admission criteria must be based on an

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assessment of the applicant's present functional ability. Anticipated physical or mental deterioration or incapacity should not be a factor.

10. Individualized Assessment

Where there is evidence that the particular handicap may affect ability, the applicant is entitled to some form of individualized assessment by the college, with a view to affording him or her with a fair and accurate appraisal of abilities.

11. Probability of Employment

Probability of success in the occupation cannot be used in determining admission to a program.

Discussion

Persons with handicaps must not be excluded from college programs because of possible or perceived lack of accommodations in the labour market or because of an opinion that the student would never be able to find a job in the occupation to which the program of study pertains. However, all students should be counselled as to the possibilities of employment.

12. Presumption of Capability

Once applicants have been admitted to a program, they are presumed to be capable of fulfilling the essential requirements of the program subject to the ongoing provision of reasonable accommodation.

13. Limitations on Number of Places

There must not be a limit placed on the proportion or number of persons with handicaps admitted to colleges unless undue hardship can be demonstrated by the college.