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PREAMBLE

Since the establishment of the Committee of Presidents Task Force (1986) to investigate College services to students with disabilities and the subsequent publication of its report, all colleges are responsible for developing and coordinating disability support services and awareness activities. Although the design and delivery of such College services vary from college to college, there is a common mission. Disability Offices ensure the provision of services for students with disabilities and fulfill the obligations as described in the legislative initiatives to provide "fair and equal access". The purposes of the services are two-fold:

- To provide supports that improve the educational development of students with disabilities such as case management, assessment services, access to technical support, interpreting and notetaking, provision of accommodations and a support centre/lab.
- To eliminate barriers to accessibility, both physical and academic through consultation and P.D. activities for faculty and staff.

Contents of this document are derived from statements within the Committee of Presidents' Task Force Report (Appendix A) as well as input from the College Committee on Special Needs (1993) representatives, students and other significant constituents of the college system.

For the purposes of this document and the operations of the Centre for Students with Disabilities, "disabilities" refer to those disabilities as defined within the Human Rights Code (Revised Statutes of Ontario; 1990, Chapter H.19; April 1994), as they apply to the college environment. Further, the disabilities require accommodations as the means of compensation, to minimize the effects of the disability.

POLICY

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, colleges must responsibly advocate for the needs of students with disabilities within the college environment.

PROCEDURES, ROLES AND RESPONSIBILITIES**1. Organization & Administration**

1.1 The organization and scope of services for students with disabilities should be determined by the size, nature, capability and values of the institution. Services should be strategically placed within the organization's structure such that opportunities to develop and direct activities are effectively maximized.

2. Human Resources

2.1 Colleges will employ, when required, appropriately skilled and knowledgeable professionals who will provide services to students and consultations to staff, maintaining objectivity and ethical practices among relationships.

2.1.1 Qualified professional staff are essential to the delivery of services that address the unique needs of students with disabilities. To be qualified, professional staff should possess a post-graduate degree in a relevant field of study or an equivalent combination of education and experience, depending on the position.

2.1.2 Support staff such as interpreters, readers, aids, scribes, etc. should possess the academic preparation, experience, abilities, professional interest and competencies essential for the efficient operation of services. Adequate training and supervision are essential.

- 2.1.3 Clerical and support staff should possess special knowledge and training in the use of equipment unique to students with disabilities and personal traits consistent with the provision of specialized personal services.

3. Access & Services

- 3.1 Students with disabilities will have equal access to all institutional programs and services subject to meeting minimum program requirements.

- 3.1.1 Persons with disabilities have the right to participate in college programs and services once enrolled and subject to meeting program standards.

(Equal treatment means meeting the differentiated needs of persons with disabilities so that they have the same opportunity to achieve results as everyone else. Such treatment takes on various forms and differs from the treatment of non-disabled persons.)

- 3.2 Development of new policies and procedures will take into consideration any implications for students with disabilities.

- 3.2.1 Directed assistance and actions through Disabilities Offices serve to focus activities related to students with disabilities. The services and supports are designed, organized, coordinated and implemented from this location. This is a service that differs from all other services and activities offered by other college agents.

- 3.2.2 Any new College policies should respect the dignity of persons with disabilities and encourage self-advocacy.

- 3.2.3 Disability Offices should play a major role in seeing that institutions as a whole, are knowledgeable about, and in compliance with, legal requirements for access under Section 15 of the Canadian Charter of Rights and Freedoms and Section 1 of the Ontario Human Rights Code. Formal and informal assessments of the academic, social, physical and psychological components are required and should be accompanied by systematic reviews and appropriate adjustments of accommodations.

- 3.3 Direct assistance and accommodations will be provided to individual students with disabilities.

- 3.3.1 A primary activity of the Disability Office is the provision of direct support services to individual students with disabilities. These services vary and are based on the individual and on the services available elsewhere within the College and/or in the community.

3.3.2 Accommodations are the adjustments, adaptations, assistive devices and/or technical aids required by a student with disabilities for the entrance and/or completion of a course or program offered by the College. They 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 ameliorated. 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; notetakers, interpreters, educational attendants, testing aids, adapted schedules, diagnostic assessments, FM systems, and alternative format materials.

4. Identification

- 4.1 Students with disabilities are responsible for identifying their needs through a variety of means defined and communicated by the College.
 - 4.1.1 Each student requesting service should have the opportunity of an intake interview that determines the disability and its effect on academic performance and participation in college life. Appropriate adaptations can then be identified and subsequent planning for provisions can be completed.
 - 4.1.2 Students are responsible for providing documentation that verifies the diagnosis of a disability.
 - 4.1.3 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.

5. Conditions & Requirements

- 5.1 Where a condition or requirement is imposed in relation to a college program or service, evidence must be provided that the condition or requirement is essential to that program or service (e.g. attributing time limits to tests of knowledge).
- 5.2 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 and do not alter program standards).

- 5.2.1 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.
- 5.2.2 Undue hardship must be demonstrated objectively as outlined in the Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (Ontario Human Rights Commission, 2000). Evidence of financial costs or health or safety risk must be demonstrated objectively.

6. Admissions

- 6.1 Persons with disabilities must meet program eligibility criteria and applicant selection criteria relevant to the program, and they have the opportunity to be provided with reasonable accommodations in the admission and selection process.
- 6.2 No greater onus of proof with respect to capacity or ability should be required from a person with a disability than is ordinarily required from others.
- 6.3 Assessment of an individual must be based on the present functional ability and cannot be influenced by expected deterioration.
 - 6.3.1 Adaptation(s) may be necessary in determining program eligibility and may include alternative testing methods and formats.
 - 6.3.2 An applicant is entitled to an individualized assessment by the College, with the intent of providing a fair and accurate evaluation of abilities. The College will identify the assessment required for the provision of appropriate accommodations.
- 6.4 Probability of success in the occupation cannot be used in determining admission to a program.
 - 6.4.1 Career assessments and program demands analyses aid an individual in selecting a given occupation, however, these tools are not screening devices.
- 6.5 There must not be a limit placed on the proportion or number of persons with disabilities admitted to the College, programs and/or courses, unless undue hardship can be demonstrated as required by the Ontario Human Rights Commission Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (2000).

7. Programs

- 7.1 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.
- 7.2 Targeted programs that are regular programs either targeted specifically to persons with disabilities, or are delivered separately, may be established only if accommodation in regular programs would create undue hardship.
 - 7.2.1 Targeted programs are appropriate when they are established to be the least restrictive for the student, when the results 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 derived from sources other than those of the Accessibility Fund for Students with Disabilities, Ministry of Training, Colleges and Universities.
- 7.3 Special programs that are targeted exclusively to persons with disabilities may be implemented provided they meet the “special programs” as defined in Section 13 (1) of the Ontario Human Rights Code.
 - 7.3.1 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.

8. Other Supports

- 8.1 Individual and group counselling and advising of students with disabilities will be provided.
 - 8.1.1 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.
- 8.2 Students may be referred to professionals outside of the institution by the Disabilities Office. The cost for such services must be borne by the student, OSAP and OSBP Disability Bursary, or appropriate agency.
 - 8.2.1 Any student being referred outside of the College will be a registered student and will not have access to the same opportunity through another sponsored source such as; WSIB, Ontario Disability Support Program, insurance companies or similar supporting agencies.

- 8.2.2 Diagnostic assessments that are requested through the Disabilities Office, shall be funded through the Accessibility Fund for Students with Disabilities, Ministry of Training, Colleges and Universities, or the OSAP and OSBP Bursary for Students with Disabilities.
- 8.3 Statistical reports will be derived from the self-identification process and data collection will be reported for the purposes of information and planning.
- 8.4 Dissemination of information to the College Community regarding student needs and legal rights of students with disabilities will be the responsibility of the Disability Office.
- 8.4.1 Information regarding the availability of services for students with disabilities should be included in all major publications such as calendars, student handbooks, recruitment materials, newsletters and course outlines. All publications should identify a contact point where students with disabilities can obtain accessibility information.
- 8.5 The Academic Appeal process is available to students who wish a formal review of any dispute regarding academic accommodations.

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)

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 on 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 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.

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.”

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:

- 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 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 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.