



Purpose: MFN is committed to developing an inclusive, barrier-free work environment in which all persons have equal access to employment opportunities, appointments are based on merit and all employees feel included and valued. This policy outlines the principal steps necessary to attain the goal of a representative Miawpukek First Nation workforce that includes persons with disabilities.

Scope: All classification of employees including elected officials.

Policy objectives

This policy's goal is to ensure the full participation of persons with disabilities in the Miawpukek First Nation workforce whether as candidates for employment or as employees.

This policy is consistent with fundamental Canadian legal principles including the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and the Employment Equity Act. Moreover this policy is consistent with Mi'kmaq history and culture of inclusiveness and caring for our people, friends and allies.

Policy statement

It is the policy of the Miawpukek First Nation to create and maintain an inclusive, barrier-free environment in the Miawpukek First Nation workforce to ensure the full participation of persons with disabilities. This policy is to be implemented by:

- identifying and removing barriers to employment, career development and promotion of persons with disabilities unless doing so would result in undue hardship
- designing all employment systems, processes and facilities to be accessible by building accommodation into workplace standards, systems, processes and facilities and
- accommodating individuals when such barriers cannot be removed. Such accommodation must be made to the point of undue hardship taking into consideration issues of health, safety and cost. Accommodation must also be based on the circumstances of each case and must respect an individual's right to privacy and confidentiality.



Application

This policy applies:

1. with respect to accommodation within the workplace, to all Miawpukek First Nation departments, agencies and wholly owned businesses; and
2. with respect to accommodation during staffing (recruiting) processes, to the all departments, agencies and wholly owned businesses that have authority to appoint persons.

Definitions

In this policy:

Accommodation/accommodate - refers to the design and adaptation of the work environment to the needs of as many types of persons as possible and, according to the Supreme Court of Canada, refers to what is required in the circumstances of each case to avoid discrimination. Several examples of accommodation are listed in the guidelines attached to this policy.

Adaptive technology- consists of work-related devices or equipment that allow employees with disabilities to participate as fully as possible in the workplace and include items such as magnification software and hardware, voice recognition software and augmentative communication devices.

Attendant services-- refers to the provision of services to persons with disabilities who require assistance with the duties of their position, as well as assistance with activities of everyday living during the employees' hours of work.

Barriers (obstacles) -- are physical barriers as well as formal or informal policies and practices that restrict or exclude persons in the designated groups from employment opportunities in the Miawpukek First Nation workforce.

Bona fide occupational requirements- according to the Supreme Court of Canada, are those requirements that:

- the employer has adopted for a purpose or goal that is rationally connected to the functions of the position,
- the employer has adopted in good faith, in the belief that they are necessary to fulfil the purpose or goal and
- are reasonably necessary to accomplish the purpose or goal in the sense that the employer cannot accommodate persons with the characteristics of a particular group without incurring undue hardship.



More information on the application of this definition is contained in the Guidelines attached to this policy.

Candidates- includes applicants from outside the Miawpukek First Nation current workforce, as well as existing employees who are participating in a staffing/recruitment process.

Employees- includes full-time, part-time, casual, seasonal, and term employees.

Employment and employment-related opportunities- includes appointments, promotions, deployments, secondments, assignments, training and career development opportunities.

Facilities- includes all Miawpukek First Nation premises and equipment.

Flexible work arrangements- include but are not limited to telework and compressed work weeks.

Persons with disabilities- as defined by the Employment Equity Act, are persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who:

- consider themselves disadvantaged in employment by reason of that impairment or
- believe that an employer or potential employer likely would consider them disadvantaged in employment by reason of that impairment.

These would include persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace.

For the purpose of this policy, persons with disabilities do not have to fall strictly within this definition. Examples of types of disabilities that may require accommodation are listed in the attached Guidelines.

Staffing and recruitment processes- include open, closed or without competition staffing actions that result in a permanent or temporary appointment or deployment. Staffing and recruitment processes encompass all related activities such as establishing qualifications, advertising, assessment, giving notice that an appointment or deployment has been made, recourse and disclosure, as well as any related communications with candidates.

Systems- includes information systems and employment systems (such as policies, practices, directives and guidelines).

Work-related events- includes meetings, training programs, conferences, retreats, seminars, social events and information sessions, whether conducted inside or outside the workplace.



Policy requirements

The Miawpukek First Nation will:

- ensure that Standards for Selection and Assessment do not discriminate on any prohibited ground of discrimination, including disability, unless the requirement is a bona fide occupational requirement,
- ensure that all employment opportunities are advertised in an accessible format,
- ensure that assessment methods or tools used in the staffing process, including tests and interviews, accurately assess the qualifications required, do not constitute barriers and assess candidates fairly,
- inform all candidates of this policy and the procedure for obtaining accommodation during the staffing process,
- inform all candidates, in a timely fashion, of the type or nature of tests or other evaluation methods that will be used in the selection process to allow the candidates to make an informed request for appropriate accommodation,
- if necessary, consult appropriate health care professionals and others, with the candidate's consent, to determine the accommodation appropriate to that person,
- respect candidates' right to privacy and confidentiality, and
- accommodate individual candidates with disabilities up to the point of undue hardship.

Candidates in a selection process must:

- inform the Miawpukek First Nation Intergovernmental Secretariat through its staffing/recruitment representative of any accommodation required in a timely fashion so that appropriate accommodation can be arranged and
- collaborate with Miawpukek First Nation Intergovernmental Secretariat and relevant departmental representatives in finding the most appropriate accommodation.

The Miawpukek First Nation Intergovernmental Secretariat will:

- inform all departments and wholly owned businesses of this policy,
- provide interpretation and guidance to departments and businesses with respect to the requirements of this policy, and
- Undertake a comprehensive review of the provisions and operation of this policy within five years of its coming into effect.

Department Directors are responsible for the implementation of this policy within their departments. They and their managers must:

- create and maintain an inclusive, barrier-free work environment that is accessible,
- inform all employees of this policy and the procedure for obtaining accommodation,
- ensure that employment opportunities are advertised in an accessible format,
- ensure that all managers within the department abide by this policy,



- make available the resources necessary for implementing this policy,
- examine all systems to identify any barriers to employees with disabilities, and remove those barriers,
- when barriers cannot be removed, accommodate individual employees with disabilities up to the point of undue hardship,
- consult employees with disabilities, including employees with learning disabilities, with respect to:
 - any design, changes or upgrades to physical structures, new or existing systems or equipment so that the workplace is accessible to employees with disabilities, and
 - the planning and design of work-related events and conferences so that all events and opportunities are accessible to employees with disabilities,
- provide training to employees with disabilities on the use of any new or upgraded equipment or systems,
- ensure that employees with disabilities are provided with information in a timely fashion and a usable format,
- after general barriers have been removed and general accommodation measures have been put in place, proceed with individual accommodation requests of persons with disabilities by:
 - consulting with the employee to identify the nature of the accommodation,
 - if necessary, consulting appropriate medical and rehabilitation advisors and others, with the employee's consent, to determine the accommodation appropriate to that person and
 - accommodating the employee,
- consult and collaborate with bargaining agents or other employee representatives where accommodation affects other employees or where the employee being accommodated requests that the bargaining agents or other employee representatives be consulted,
- provide and pay for technical aids, equipment and services for employees with disabilities as well as repairs to such aids and equipment,
- respect individuals' right to privacy and confidentiality and
- allow employees with disabilities to retain technical aids, equipment and support materials should they move to another position within the Miawpukek First Nation workforce and accommodation is still required.

Employees must:

- inform their supervisors of their employment-related needs,
- collaborate with the department or its representatives in finding the most appropriate means to accommodate their employment-related needs, and
- notify the department when attendant or other services, technical aids or equipment are no longer needed, and return the equipment.



Monitoring

The Miawpukek First Nation Intergovernmental Secretariat will assess and evaluate the effectiveness and implementation of this policy.

Departments and wholly owned businesses will provide early notice to the Miawpukek First Nation Inter Governmental Secretariat of significant issues arising from the implementation of this policy.

References

Access to Information Act
Canada Labour Code, Part II
Canadian Charter of Rights and Freedoms
Canadian Human Rights Act
Employment Equity Act and Regulations

Enquiries

Enquiries should be forwarded to the director or relevant manager in your department or wholly owned Miawpukek First Nation business. They may review questions of policy interpretation or clarification with the Miawpukek First Nation legal counsel or the human resource assistant of the Miawpukek First Nation Intergovernmental Secretariat.

Information may also be obtained from the Miawpukek First Nation's Web site



Guidelines

These guidelines are not intended to be exhaustive, but offer some suggestions on how to interpret and implement this policy.

As stated in the preamble, the Miawpukek First Nation is committed to an inclusive and barrier-free work environment in which all persons have equal access to opportunities in the Miawpukek First Nation workforce and appointments are based on merit. Creating such a work environment requires that differences are accommodated before the merit assessment (i.e. recruitment) is undertaken and that assessment and evaluation tools are inclusive and barrier-free.

According to the Supreme Court of Canada, barriers to participation for persons with disabilities must be eliminated from policies, rules, standards and practices at the design stage. Employers cannot rely on accommodating individuals after the fact but must build accommodation into their policies or practices, as far as possible, to the point of undue hardship. If provision for accommodation has not been incorporated into the policy or standard then the policy or standard is not a bona fide occupational requirement.

The corporate culture of all Miawpukek First Nation Departments and wholly owned businesses can ensure that persons with disabilities feel welcome in that environment. Training or in servicing should be made available to managers and others, such as interview committee members, on the duty to accommodate.

The accommodation process should be as uncomplicated as possible and should respect the dignity and privacy of the person being accommodated. This can be accomplished if, at the time any person applies for a position, he or she is asked whether or not accommodation is required. The inquiry should be made again at the time of appointment or at the beginning of any other staffing process.

Under certain circumstances, departments and wholly owned businesses may be required to offer accommodation to an employee even though the employee has not requested accommodation. Such situations should be handled with the utmost consideration for the privacy and dignity of the employee and directors and managers may wish to obtain confidential, expert advice from the Miawpukek First Nation Legal Counsel before proceeding.

A request for accommodation need not be in writing, but should be communicated as clearly and specifically as possible. The person to whom the request has been directed should do the following.

1. Determine the type of accommodation required, based on information provided by the candidate or employee.
2. If the candidate or employee does not know what type of accommodation is required, consult experts in the field to determine the appropriate accommodation. This could



include Conne River Health and Social Services, the person's own physician, or psychologist.

3. Provide the accommodation based on the request of the person being accommodated, or, if necessary, on the advice of experts.

Persons requesting accommodation may be asked to provide documentation from a qualified health care professional to clarify the limitations caused by the disability and/or the type of accommodation that would be most effective. Any medical records provided should be kept strictly confidential and separate from personnel files.

Departments and wholly owned businesses are expected to integrate into their budgets and financial planning the resources necessary to accommodate their employees.

Persons who are denied accommodation by departments or wholly owned business units will have an appeal mechanism to the General Manager to Chief and Council.

To implement employment and training equity, the Miawpukek First Nation encourages and promotes members of designated groups to identify themselves. However, an employee does not have to self-identify as a person with a disability in order to be accommodated or to have accommodation offered to him or her. The self-identification process is voluntary and the information obtained from it is confidential. No one can be forced to self-identify to receive accommodation or after he or she has been accommodated.

Although this policy applies only to employees of, and candidates for positions in the Miawpukek First Nation workforce, directors, managers and others are expected to abide by the spirit of the policy when dealing with other persons who work for the Miawpukek First Nation workforce, such as students and on the job work placements that may be done from time to time for training institutes.

Examples of Disabilities

Determining what a disability is depends on the circumstances of each case. The following have been found to be disabilities:

- blindness or other severe visual impairment
- deafness or other severe hearing impairment
- mobility impairment
- chronic pain
- environmental sensitivities
- addictions
- learning disabilities
- speech impairment
- chronic conditions, such as diabetes
- psychiatric disabilities



- developmental disabilities
- other permanent or temporary conditions that cause pain or limit or restrict activities

Examples of Accommodation

During the selection process, a person's qualifications must be assessed after the person has been accommodated. Types of accommodation during the selection process may include, but are not limited to:

- providing information about the position in multiple formats for candidates who are blind or visually impaired,
- ensuring that applicants who are deaf or hearing impaired can make inquiries via a TTY number or fax,
- allowing extra time, where appropriate, for tests, interview question answers or exams and
- ensuring that the interview site is physically accessible.

Types of accommodation in the workplace may include, but are not limited to:

- attendant services,
- adaptive technology,
- changes to work sites,
- flexible work arrangements, including but not limited to tele-work, task modifications or other alternative work arrangements,
- converting printed matter to alternative media and reader services for employees who are blind,
- providing work space, common space, and washroom facilities and furnishings appropriate to the nature of the disability,
- providing electronic interpreters for deaf and hearing-impaired employees and
- adapting training programs to the needs of employees with disabilities, including those with learning disabilities.

Alternate formats can include:

- Braille documents
- large print documents
- electronic versions of documents