



## AP 414 – DUTY TO ACCOMMODATE

### BACKGROUND

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The division's duty to accommodate arises out of the Canadian Human Rights Act and the Saskatchewan Human Rights Code developed to protect fundamental employment rights of certain individuals and classes.

The duty to accommodate recognizes that true equality means respecting people's different needs. Those accommodated needs could be related to a person's gender, age, disability, family, or marital status, ethnic or cultural origin, religion or any of the other human attributes identified in the two human rights laws.

The goal is to provide safe, productive, and meaningful work that continues to meet the needs of the division and respects the medical or other requirements of the employee. Each accommodation is undertaken based upon the unique circumstances of the case. Notably, there is no requirement of the division to create a new position.

### PROCEDURES

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#### 1. Worker's Compensation –

**This section only applies to support staff, out-of-scope employees, substitute support staff and substitute teachers**

- 1.1. If an employee is injured at work, the employee is required to immediately report the incident to their immediate supervisor/principal. In their absence, any supervisory or management personnel must be informed. An employee should not leave the workplace without reporting an injury.
- 1.2. The employee would then complete the W1 form (Workers' Report of Injury). The form should then be sent to the Human Resources Department where the E1 form (Employers' Report of Injury) is completed and submitted to the Workers' Compensation Board. The employee should keep a copy of the W1 form for their own records.
- 1.3. If deemed necessary, a report will be made to the Occupational Health and Safety committee and will be placed on the next regular agenda.
- 1.4. If the claim involves lost time from work, the supervisor/principal should contact a member of the Human Resources Department, if necessary, to discuss the work site investigation, cost relief opportunities, modified work opportunities or other pertinent claim issues.
- 1.5. The role of the Human Resources Department is to act as a liaison between the Workers' Compensation Board and the supervisor/principal.
- 1.6. If the employee requires medical attention, the employee should go to a physician or duly qualified registered medical professional immediately. The employee should be given the 'Duty to Accommodate Package' by their supervisor/principal which includes:
  - 1.6.1. Memo to Injured Employee
  - 1.6.2. Abilities Assessment Report



- 1.6.3. Completed Employee Job Demands Form
- 1.7. The employee should contact their supervisor/principal immediately following their medical treatment to discuss returning to work or possible accommodations and to submit medical information.
- 1.8. The supervisor/principal and employee, along with a union representative, if necessary, would then determine a return to work plan which could include workplace accommodations.
- 1.9. Ongoing communication should be maintained between a member of the Human Resources Department, the WCB Case Manager/Worker, the supervisor/principal and, where necessary, the union based on action plans.
  - 1.9.1. A member of the Human Resources Department will facilitate the modified return to work program with the supervisor/principal.
  - 1.9.2. A member of the Human Resources Department will advise WCB of any changes to the employee's work status and any other pertinent issues.
2. Non-Work Related Injury or Illness

If an employee is ill or injured away from work, the employee is required to notify the supervisor/principal that they will be absent.

- 2.1. Early contact with the employee is essential in starting the process of returning the employee back to work. In many cases the employee simply returns to work and little or no intervention is required.
- 2.2. Support staff and caretaker/maintenance employees away from work for more than 3 days will be required to submit a medical statement from a duly qualified, registered medical professional, certifying that the employee was unable to carry out duties due to illness/injury. Teachers away from work for more than 5 days will be required to submit a medical statement from a duly qualified registered medical professional. A duly qualified registered medical professional may include physicians, chiropractors, physiotherapists, occupational therapists, nurse practitioners, psychologists and others who have specialized training in identifying medical limitations and restrictions.
- 2.3. If there is not enough information to determine a return to work date, a member of the Human Resources Department will send the employee a 'Duty to Accommodate package', where applicable, for their duly qualified registered medical professional to complete. This form provides the employee's work restrictions/limitations and should be returned to the Human Resources Department.
- 2.4. When the Duty to Accommodate package is completed and returned, communication should take place between the supervisor/principal, and a member of the Human Resources Department, if necessary, to determine a return to work plan.
- 2.5. If appropriate, a return to work plan should be developed, documented, and agreed to by all parties. This plan should be developed in discussion with the employee, supervisor, and a member of the Human Resources Department, and a union representative if necessary.
  - 2.5.1. Medical restrictions provided by the duly qualified registered medical professional will be adhered to in the development of the plan.
  - 2.5.2. Medical restrictions describe those limitations of skills and abilities that result from disability and prevent an employee from carrying out some specific aspects of their



work. The division reserves the right to seek clarification on the restrictions provided by the duly qualified registered medical professional. .

- 2.5.3. Recommendations made by the duly qualified registered medical professional about modifications to the workplace are deemed to be recommendations only and are not binding on the division. Final decisions regarding workplace modifications rests with the division.
- 2.6. If the employee is unable to return to work in any capacity for the immediate future, the supervisor/principal and/or a member of the Human Resources Department will set a follow-up date for review.
- 2.7. The employee's supervisor/principal will follow up with the employee during their modified return to work program on a regular basis.
  - 2.7.1. Any issues of deterioration in the employee's condition during their modified return to work program should be documented by the supervisor/principal. Any issue should then be immediately addressed with the employee by their supervisor/principal and where necessary, a member of the Human Resources Department.
- 2.8. Once the plan is completed and the employee is fully returned to work, follow-up should continue as necessary.
3. Contract teacher work-related injury
  - 3.1. Please refer to steps outlined in point #2 above.
4. All medical documentation surrounding the employee's illness/injury should be kept in the Human Resources Department.
5. If an employee makes a request for an accommodation that is not medical in nature (and falls under one of the protected grounds outlined in the human rights laws), the employee will put the request in writing and submit it to their supervisor/principal.
  - 5.1. The supervisor/principal would then contact a member of the Human Resources Department to determine what barriers might affect the person requesting the accommodation, explore options for removing those barriers and determine if an appropriate accommodation is possible.
6. Employees are obligated to cooperate with the division throughout the duty to accommodate process.
7. Undue hardship exists when the steps required to accommodate the employee are so extreme, onerous, or difficult, that it is clear it is unreasonable to expect the division to implement them . If the school division finds that removing the barrier or changing the workplace rule creates an undue hardship on the organization the accommodation request may be denied.

Reference: Canadian Human Rights Act  
Saskatchewan Human Rights Code  
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