



Living Sky School Division No. 202

Procedure Type: Human Resources

Procedure Number: 5.30

Procedure Title: The Duty to Accommodate Program/Return to Work

Legal References: *The Saskatchewan Human Rights Code; Canadian Human Rights Act; The Saskatchewan Employment Act; Canadian Charter of Rights and Freedoms; Saskatchewan Teachers' Provincial Collective Bargaining Agreement; The Workers' Compensation Miscellaneous Regulations; The Education Act*

Approval Date: August 31, 2016

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Background

Living Sky School Division is committed to providing all employees with a healthy work environment and will take any meaningful and practical steps necessary to achieve and promote this commitment. The Duty to Accommodate/Return to Work Procedure is for employees who require a temporary or permanent workplace accommodation.

Canadian and provincial laws prohibit discrimination based on any of the grounds (such as race, colour, religion, age or disability) identified in the legislation. Employers have a legal duty to reasonably accommodate employees who fall into the grounds protected by law up to the point of undue hardship.

Accommodating an employee may be as simple as offering a graduated return to work program, changing an assignment, altering duties or obtaining tools and equipment to assist the employee in effectively performing tasks. 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. The return-to-work process begins immediately after a disability, injury, illness or request for accommodation occurs. The specific accommodation will be determined based upon the unique circumstances of each case and does not involve the creation of new positions to create work when accommodations are not possible. Where temporary accommodations are made, the parties shall review such arrangements on a regular basis. Employees on a permanent accommodation will be reviewed annually.

Employees are expected to participate and cooperate fully in accommodation and return to work plans. Any employee's personal information will be held in confidence and only provided to those necessary in the accommodation.

Scope

This program applies to all employees of Living Sky School Division.



Procedures

1. Purpose of a Return to Work

- a) The Duty to Accommodate/Return to Work Program is designed to help return injured or ill employee(s) to the workplace as soon as it is possible. It is recognized that an employee may request a reasonable accommodation while actively working and therefore the program will focus on assessing the request, and implementing an accommodation, if required. The accommodation may include the employee returning to work gradually, full time, and/or with modified duties or work schedule.
- b) The goal of the program is to return the injured or ill employee to their home position where possible. Where this is not possible, the Supervisor, Human Resources Department, and Union (if applicable) will work jointly with the employee to find reasonable accommodation.
- c) When, in the judgement of the Supervisor, Human Resources Department and Union (if applicable), it has been clearly established based upon the medical information available, that the injured or ill employee will not return to their former position, due to permanent/temporary restrictions, the employer will explore all reasonable alternatives to accommodate the injured or ill employee.

2. Roles and Responsibilities

- a) Living Sky School Division
 - i) Living Sky School Division will make every reasonable effort, short of undue hardship, to accommodate an injured or ill employee. Living Sky School Division will ensure that suitable accommodation options are available in a timely manner to return injured or ill employees to work in positions that are safe, meaningful, productive, of value to Living Sky School Division and within injured or ill employees' skills and abilities. Undue hardship refers to the limit of an employer's ability to accommodate without experiencing unreasonable amount of difficulty based on health, safety, and/or financial considerations.
- b) Injured or Ill Employees

Employees are responsible for reporting injuries and absences for medical reasons to their Supervisor and are responsible for cooperating fully in the timely development and implementation of their return-to work/accommodation plans by:

 - i) Completing the Worker's Initial Report of Injury Form (W1) if the employee was injured while at work (applies to non-teaching staff and sub-teachers). This form is to be completed as soon as possible. Unless the injury is such that it requires immediate medical attention, an employee should not leave the workplace without reporting it. The process to follow for workplace injuries is described in HR Procedure 5.31: *Workers' Compensation*.
 - ii) Following an injury or illness, either the employee or the employer may initiate the request for accommodation. In either case, Human Resources may supply the employee with the *Assessment of Abilities* form to be completed by a health care practitioner.
 - iii) Cooperating with those involved with the accommodation.
 - iv) Responding to the employer's reasonable request to obtain applicable medical information from a qualified health care professional to clarify restrictions and limitations. Failure to comply with a request may delay the accommodation process.
 - v) Following all treatments and rehabilitation prescribed by the health care practitioner(s).
 - vi) Allowing a reasonable amount of time for the employer to reply to the request for accommodation.
 - vii) Participating in any discussions regarding possible accommodation solutions.
 - viii) Listening to and considering any reasonable accommodation options that are proposed.
 - ix) Effectively performing the essential requirements and duties of a job after being accommodated.
 - x) Advising the Supervisor and Human Resources Department of changes in accommodation needs.



3. Supervisors

Supervisors will ensure every effort is made to arrange suitable accommodation options for injured or ill employees. Supervisors will create and maintain a positive climate in the workplace that contributes to the success of individual return-to-work/accommodation plans. When an accommodation is required, Supervisors are responsible for:

- a) Ensuring employees are aware of their right to accommodation and explain details about the Duty to Accommodate/Return to Work program.
- b) Gathering appropriate information necessary to provide suitable accommodations for injured or ill employees.
- c) Taking an active role in exploring and discussing with the employee alternative approaches and solutions to accommodate the employee.
- d) Completing a Job Information Work Sheet (if applicable), if required by Workers' Compensation Board.
- e) Completing a return-to-work/accommodation plan with the Human Resources Department.
- f) Taking notes and keeping records of all discussions about accommodation.
- g) Ensuring information is kept confidential.
- h) Monitoring the progress of the injured or ill employee during the accommodation.
- i) Reviewing and recommend modifications to the return-to work/accommodation plan if the circumstances change or the solution is no longer working.
- j) Determining appropriate performance standards in relation to the accommodation.
- k) Ensuring that other employees support the injured or ill employee throughout the duration of his/her accommodation.

4. Human Resources/Payroll

When an accommodation is required, Human Resources/Payroll is responsible for:

- a) Providing support and advice to the Supervisor and employee requesting the accommodation.
- b) Ensuring the employer receives appropriate information from the health care practitioner(s) regarding an employee's restrictions and limitations.
- c) Ensuring the Employer completes the applicable forms for Workers' Compensation Board (WCB) (if applicable) and long-term disability (if applicable), as required.
- d) Informing the long-term disability provider or WCB Case Manager (if applicable) of the return-to-work plan if the plan is developed without the direction of the Case Manager.
- e) Ensuring that there is no conflict with the applicable collective agreement.
- f) Initiating the review of accommodations on a regular and/or annual basis.
- g) Ensuring reimbursement to the employee or health care practitioner for the completion of employer required form(s).



5. All Employees

All employees will cooperate fully in facilitating the timely return-to-work of injured or ill employees. When an accommodation is required, all employees are responsible for ensuring that other employees support the injured or ill employee throughout the duration of his/her transitional accommodation plan/return to work.

6. Health Care Practitioners

Health care practitioners are responsible to:

- a) Provide medical treatment in order to achieve optimum functionality and discuss with the patient anticipated recovery and healing times early in the course of treatment.
- b) Support and encourage the patient to participate in a timely return-to-work program.
- c) Provide accurate and timely objective medical information for the purposes of an accommodation/return to work plan. This information should highlight duration of illness, expectations for recovery, and work capability and limitations, where known.

7. Developing an Accommodation/Return to Work Plan

- a) Employees will report all work-related injuries and illness to their supervisor, as soon as they occur. An employee who is unable to attend work for any reason, must contact his/her supervisor immediately to explain the circumstances of the absence.
- b) In the event it is a workplace injury, the Supervisor will provide the Worker's Initial Report of Injury Form (W1) to the employee. This form can be found on the WCB website (applies to non-teaching staff and sub-teachers).
- c) The employee will contact the Supervisor after his/her initial medical appointment to report if his/her injury or illness has resulted in restrictions. If necessary, the employee will inform his/her Supervisor he/she will be requesting an accommodation. The employee will contact the Human Resources Department to request the accommodation, either verbally or in writing (such as email).
- d) Upon receipt of the request, Human Resources may provide the employee the *Abilities Assessment Form*. The employee will take this form to his/her treating physician or health care practitioner.
- e) Human Resources, Payroll and the appropriate supervisor will meet to review and discuss the accommodation request and draft the accommodation/return-to-work plan. Once the accommodation/return-to-work plan is finalized, all parties will sign the plan acknowledging the agreement.
- f) The employee will be asked to provide regular updates of his/her rehabilitation progress to the supervisor as well as updated medical information directly to human resources. The workplace will subsequently be updated regarding medical appointment dates, estimated return to work date (if applicable) and any limitation or work restrictions that need to be accommodated.
- g) Employees may be at work but due to illness or injury are having difficulty meeting their performance expectations. Early identification and assistance for these employees may enable them to remain at work as long as possible. Supervisors play a key role in identifying difficulties and advising human resources/payroll.

8. Accommodation Options

The employer will explore accommodating the employee in his/her own job and department through:

- a) Modified duties;
- b) Job restructuring;



- c) Modifying work schedules;
- d) Acquiring or modifying equipment; or
- e) Graduated return to work.

If the employee cannot be accommodated in his/her own job and own department or school, without undue hardship, then the employer will consider accommodating the employee in another classification and/or location short of an undue hardship.

10. Non-Medical Accommodations

- a) If an employee makes a request for an accommodation that is not medical in nature, and the request falls under one of the protected grounds, the employee will put the request in writing and submit it to Human Resources.
- b) Human Resources will schedule a meeting with the employee and others as required to discuss the potential accommodation(s). The purpose of the meeting will be to determine what barriers might affect the person requesting accommodation, explore options for removing those barriers and determine an appropriate accommodation, if applicable.
- c) If the Division finds that removing the identified barriers or changing workplace rules creates an undue hardship on the organization, then the practices or rules are Bona Fide Occupational Requirements, in which case there is no duty to accommodate.

11. Compensation

In most cases, there will not be an adjustment in the hourly salary of the employee that is temporarily reassigned or working modified duties within their classification. However, the employee who is placed in an alternate classification permanently will be paid the salary that is applicable to the alternate classification for those hours worked in that position.

- a) An employee who cannot perform the core duties of his/her job, even with accommodation can be placed into a lower paid classification as long as it is:
 - i) Consistent with the employee's medical restrictions;
 - ii) Meets the employer's operational needs; and
 - iii) No other reasonable accommodation alternative is available without undue hardship.

Related

Procedure 5.31: *Workers' Compensation*

Assessment of Abilities Form – to be requested from HR Manager/Superintendent of Learning HR