

<p>Personnel and Employee Relations 7571</p> <hr/> <p>Return to Work (Duty to Accommodate)</p>	Administrative Application	
	Last Reviewed /Approved on:	September 3, 2019
	References:	Saskatchewan Regulations of the Human Rights Code Canadian Medical Association Return to Work Policy Health Information Protection of Privacy Act (HIPPA) Personal Information Protection & Electronic Documentation Act (PIPEDA) Workers' Compensation Legislation SSBA Insurance Policy Saskatchewan Employment Act 2014 Provincial Collective Bargaining Agreement (Article 7) Local Collective Bargaining Agreements – LINC and CUPE STF Duty to Accommodate Document Administrative Application 7570 – Managed Rehabilitation Policy 12 – Role of the Director
	Status:	Operational

Preamble

Accommodation can mean adjusting the job without changing essential job or education requirements. It may mean accommodating the specific individual needs of the employee through simple changes in workstation, a revision of job duties, or the provision of special devices or services, adjustment to hours of work, part-time; job-share, transfers or relocation or training. It could also involve transfers or relocation, or possibly training for alternate roles. It does not mean creating new jobs for employees or bumping another employee from his/her position.

Application

1. **Applicability**

This administrative application applies to all employees, It includes employees who not only make application for sick leave, Workers' Compensation, Long-Term Disability and/or Teacher Long Term Disability but those who may require assistance to remain on the job to eliminate the need to be absent from work.

2. **Requirements for Consideration of an Accommodation in the Work Place**

When an employee requires consideration for an accommodation in the work place:

- a. The employer has a right to know that the employee has a disability that requires an accommodation, the duration of accommodation, and any limitations in ability the employee has to perform job duties.

The employer has the right to verify medical documentation if necessary in order to provide benefits or to determine suitable accommodation.

Application Process for an Accommodation in the Work Place

- a. The employee makes a request for an accommodation and/or the request comes through outside agency (i.e. WCB/LTD/TLTD).
 - b. As accommodation is based on disability, the employee must provide medical evidence of a disability and his/her restrictions that require an accommodation.
 - c. Supervisor submits request to the Human Resource Services.
 - d. Upon receipt of Medical Documentation, the Human Resource Services will contact the employee to determine if he/she would be a candidate for the Managed Rehabilitation Program (Refer to *Administrative Application 7570*).
 - e. If the employee can benefit from the program, Human Resource Services will offer information on rehabilitation resources, assistance in rehabilitation and return to work process.
 - f. Return-to-work will take place when the employee's fitness to work has been determined and appropriate return to work plan, if required, is developed.
 - g. Human Resource Services will assure the employee that all medical information is held in strict confidence between the employee and Human Resource Services. Only information pertinent to return-to-work will be shared with employee's Supervisor/ Superintendent unless otherwise directed by the employee.
 - h. The employee will be asked to provide regular updates of his/her rehabilitation progress to Human Resource Services. The workplace will subsequently be updated regarding return to work dates and any limitation or work restrictions that need to be accommodated upon the employee's return to work. (This does not change nor excuse the employee and/or supervisor from maintaining contact regarding absence or from obtaining a substitute, if required).
 - i. The employee may be required to undergo a fitness to work assessment; job site analysis; physical demands analysis; independent medical assessment or functional capacity evaluation set up by the Human Resource Services to determine specific needs of the employee and the workplace in order to develop a safe return-to- work or an accommodation.
 - j. 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/superintendents play a key role in identifying difficulties and making prompt referrals to Human Resource Services.
3. **Return to Work Strategy**
- It is not "whether or not" the employee is going to return to work, but rather "how" the employee is going to return to work. Based on medical, physical and/or psychological ability the following scenarios will be explored sequentially and/or in combination:
- a. Within the school division:
 - i. Same site/location, same position.

- ii. Same site/location, different position.
 - iii. Different site/location, same position.
 - iv. Different site/location, different position.
 - v. Training opportunity for a different position.
- b. Alternate employer, career exploration and training.
- c. A written plan is required for each employee that includes:
- i. The anticipated end date.
 - ii. The number of phases.
 - iii. Supervisor and employee responsibilities.
 - iv. Schedule of progress evaluations
- d. Changes to the written plan in 3(c) above must be:
- i. Documented.
 - ii. Mutually agreeable to all parties.
 - iii. Within Board policy and contractual obligations.
- e. An employee's participation in the return to work plan should not adversely affect an employee's entitlement to Workers' Compensation, Sick leave, TLTD, or Long-Term Disability benefits.

4. Salary Considerations

- a. When an employee moves into a lower level job because of health reasons, the school division is not obligated under human rights legislation to pay the employee at their previous salary. The Superintendent of Human Resource Services, along with the applicable superintendent, will assess the eligibility of the employee to move to a lower level position with protected salary, according to policy, collective agreements, and human rights legislation.
- b. The importance of any placement is to utilize tools to be able to differentiate between an attendance problem and the ability to the job. Removing the employee from the job does not remove the underlying problem. One must determine whether it is the disability preventing the person from doing the job or an underlying issue tied to performance.
- c. A functional assessment must occur before any placement, particularly if the individual's restrictions are prohibiting return to their regular job in the school division. One then rules out personal preference from disability accommodation.

5. Roles and Responsibilities

Administrative Application 7570 - Managed Rehabilitation (Illness and/or Injury) outlines roles and

responsibilities for employees, supervisors, the school division Human Resource Services Department, and employee representation in connection with managed rehabilitation matters.