AP 414 – DUTY TO ACCOMMODATE

BACKGROUND

The employer’s Duty to Accommodate arises out of Federal and Provincial Human Rights laws 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 federal acts. At Saskatoon Public Schools, the majority of accommodation cases involve medically diagnosed disability issues.

Accommodating an employee may be as simple and cost effective as offering a graduated return-to-work program, changing an assignment, 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. Again, each accommodation is undertaken based upon the unique circumstances of the case. Notably, there is no requirement of the employer to fashion a make-work project or create a new position.

PROCEDURES

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 site without reporting an injury.

   1.1. The employee would then complete the W1 form (Workers’ Report of Injury). The form should then be sent to the Benefits and Compensation Manager at the Human Resources Department where the E1 form (Employers’ Report of Injury) is completed and submitted to the Workers’ Compensation Board.

   1.2. If the claim involves lost time, the supervisor/principal should contact the Benefits and Compensation Manager, if necessary, to discuss the work site investigation, cost relief opportunities, modified work opportunities or other pertinent claim issues.

   1.3. The role of the Benefits and Compensation Manager in all WCB claims is to act as a liaison between the Workers’ Compensation Board and the supervisor/principal.

   1.4. If the employee requires medical attention, the employee should go to a physician or medical practitioner as immediately. The employee should be given the ‘Employee Return to Work Activation Package’ by their supervisor which includes:

      1.4.1. Memo to Injured Employee
      1.4.2. Abilities Assessment Report
      1.4.3. Completed Employee Job Demands Form

   1.5. The employee should contact their supervisor/principal immediately following their medical treatment to discuss returning to work or alternative process and to submit medical information.
1.6. The supervisor and employee, along with a union representative, if necessary, would then determine a return to work plan which could include the option of light duties; reduced hours or time frames for the process to occur.

1.7. The supervisor/principal will then provide the Human Resources Department with copies of the Worker’s Report of Injury form. This information is then submitted to WCB within five days of the supervisor being notified of the injury.

1.8. Ongoing communication should be maintained between the Benefits and Compensation Manager, the WCB Adjudicator/Case Manager, the supervisor/principal and, where necessary, the Union based on action plans.

1.8.1. The Benefits and Compensation Manager will facilitate the Modified Return to Work Program with the supervisor/principal.

1.8.2. The Benefits and Compensation Manager will advise WCB of any changes to the employee’s work status and any other pertinent issues, which may impact the claim within 24 hours.

2. If the employee is ill or injured away from work, the employee is required to notify the supervisor/principal that he/she 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 medical practitioner, certifying that the employee was unable to carry out duties due to illness/injury. Teachers away from work for more than 6 days will be required to submit form 7-I Verification of Sickness – Practitioner’s Report.

2.3. If there is not enough information to determine a return to work date, the Benefits and Compensation Manager will send the employee an ‘Abilities Assessment Report’ for their physician to complete. This form provides the employees work restrictions/limitations.

2.3.1. The employee should ensure that they have a copy of the ‘Employee Job Demands Form’ to take with them to their physician. This will allow the physician to properly assess the employee and the tasks that they are required to complete.

2.3.2. The completed form is then returned to the Benefits and Compensation Manager.

2.4. When the ‘Abilities Assessment Report’ is completed and returned, a meeting should take place between the supervisor/principal, and the Benefits and Compensation Manager, if necessary, to determine a Return to Work Plan.

2.4.1. A comparison should be made between the ‘Abilities Assessment Form’ and the ‘Job Demands Form’

2.5. If appropriate, a Return to Work Plan should be developed and documented on a Modified Work Form. This plan should be developed in discussion with the employee, supervisor, and the Benefits and Compensation Manager.

2.5.1. Once the Return to Work plan is developed, it should be sent to the physician for approval.
2.5.2. If the physician recommends changes, then further discussion is required and revisions implemented (if the employee can be accommodated).

2.5.3. If the physician approves the Return to Work plan, then the plan is implemented immediately.

2.6. If the employee is unable to return to work in any capacity for the immediate future, the supervisor/principal and/or Benefits and Compensation Manager will set a follow-up date for review.

2.7. The employee’s supervisor/principal will follow up with the employee weekly during their modified work program during their program.

2.7.1. Any issues of deterioration in the employee’s condition during their 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, the Benefits and Compensation Manager.

2.8. Once the plan is completed and the employee is fully returned to work, follow-up should continue for at least two weeks.

2.8.1. The supervisor/principal should talk with the employee on a weekly basis to discuss any issues or concerns. It is recommended that the supervisor/principal document on a daily basis any related symptoms reported by the employee on the ‘Return to Work Activity Sheet’.

2.9. All documentation surrounding the employee’s illness/injury should be forwarded to the Human Resources Department.

2.10. Employees are obligated to cooperate with the school division in all efforts at accommodation.

3. If an employee makes a request for an accommodation that is not medical in nature (and falls under one of the protected grounds), the employee will put the request in writing and submit it to his/her supervisor/principal.

3.1. The supervisor/principal would then contact the Employee Relations Manager and/or Benefits and Compensation Manager to discuss how to proceed.

3.2. Determine what barriers might affect the person requesting accommodation.

3.3. Explore options for removing those barriers.

3.4. Determine an appropriate accommodation.

3.5. If the School Division finds that removing the barrier or changing the workplace rule creates an undue hardship on the organization, then that rule or practice is a Bona Fide Occupational Requirement (BFOR), in which case the employer does not have to accommodate.

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