

7.0. Safe Schools

7.0. SAFE SCHOOLS – Accommodation in the Workplace

Adopted:

Reviewed by Committee: August 25, 2020

Policy Reference: EL-1.2

General Philosophy

Lakeshore School Division endeavors to provide an inclusive workplace for its employees. As such, the Division will reasonably accommodate an individual's special needs to the point of undue hardship where those needs are associated with any characteristic protected by *The Human Rights Code* (Manitoba).

ROLES AND RESPONSIBILITIES

Employee Responsibilities

- Should initiate the request for accommodation
- Evidence of perceived or actual disability
- Provide medical documentation
- Cooperate with the Division/District and Union/Association with an accommodation plan
- Maintain regular and consistent contact with the Division/District
- Provide medical clearance prior to full return to work

Employer Responsibilities

- Reasonable steps to accommodate to point of undue hardship
- Does not have to create a position
- May be required to bundle duties
- Duties must allow employee to “function in a productive manner”
- Does not have to displace employees
- Familiarization period – limited
- May be out of scope or in another bargaining unit

Union / Association Responsibilities

- Acts as a cooperative partner in supporting the process
- Collective agreement language considerations
- Posting positions or waiving posting requirements
- Filling of vacancies
- Seniority provision
- Undue hardship

Guidelines

Process

1. Request for an individualized accommodation plan

The employee sends a written accommodation request to their immediate supervisor and superintendent of Human Resources. As part of their request the employee must submit relevant supporting documentation from a health care professional that outlines the aspects of their work that requires accommodation.

While the onus rests on the employee to commence this process, in certain circumstances, the employer may initiate a conversation about accommodation.

2. Assessment of employee and accommodation required

The immediate supervisor, in consultation with the superintendent will assess the employee's needs and possible accommodations on an individual basis. The Division may request further information and cover the costs of an additional evaluation by an independent regulated health professional or other practitioner in the area of workplace accommodations.

3. Developing an individual accommodation plan

The Division and employee will work together to develop an individual accommodation plan. The union/association may assist as a partner in the creation of the plan. While the Division will endeavour to accommodate the employee, it must also consider its operational needs and what it can reasonably offer. If the proposal is reasonable, the employee must make an effort and be flexible in implementation of the plan.

4. Requests Denied

The Division may deny an employee's request for accommodation in the following circumstances:

- The employee is able to carry out most of the job without an accommodation.
- An assessment by health care professionals does not support the need for a workplace accommodation.
- The accommodation would cause undue hardship for the Division. Considerations will be based on factors that include:
 - Cost
 - Health and safety
 - Effects on the rights of other employees
 - Disruption of the collective agreement
 - Nature, size and scope of the employee group
 - Interchangeability of job duties, workforce and facilities
 - Business efficiency
 - Morale of the workforce

Magnitude of the risk, and those who bear it

5. Review of the plan

The plan may have to be reviewed on with increased regularity during the first few months as well as when there are changes in workspace, change of role, at

employees request and in conjunction with regular employee evaluations.

6. Reintroduction to work

If an employee is absent due to a disability they will be reintroduced to work with the following steps:

- The employee must notify the Division well in advance of the anticipated return date.
- At the request of the Division, the employee must provide documentation from a health care provider that they are able to safely perform their duties. The Division may also choose to request further documentation, at the Division's expense, from an independent health professional or other practitioner in the area of workplace accommodations.
- The employee will meet with their immediate supervisor or designate prior to their return to duty to discuss their reintroduction to work.

Appropriate Placement Upon Return to Work

- I. Pre-disability job
- II. Pre-disability job, with modifications
- III. Alternate job, same classification
- IV. Alternate job, same classification, with modifications
- V. Alternate job, different classification, same bargaining unit
- VI. Alternate job, different bargaining unit (must be negotiated with the Union/Association)

7. Employee Refuses an Accommodation

If an accommodation is refused and the employer has met its accommodation obligation defined by legislation, the Division will make a decision related to continuing the employment relationship. The decision may be made to discontinue the employment relationship.

Other legislative references:

The Accessibility for Manitobans Act
Canadian Charter of Rights and Freedoms
Manitoba Human Rights Code

