

# AVON MAITLAND DISTRICT SCHOOL BOARD

## ADMINISTRATIVE PROCEDURE

### NO. 416

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#### **SUBJECT:      WORKPLACE ACCOMMODATION (STAFF)**

Legal References:      *Education Act: Section 283 Chief Executive Officer; Occupational Health and Safety Act (OSHA); Workplace Safety and Insurance Act, 1997 (WSIA); Ontario Human Rights Code (OHRC); Accessibility for Ontarians with Disabilities Act (AODA)*

Related References:      *Administrative Procedure (AP) 152 Medical Certificates - Staff and Students; AP 175 Reporting Hazards, Incidents and Occupational Illness; AP 402 Attendance Reporting (Staff)*

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#### **1.0 Purpose**

- 1.1 The Avon Maitland District School Board (the Board) is committed to minimizing injury and illness related absences by promoting early and safe return to work practices and providing workplace accommodations.
- 1.2 This administrative procedure establishes guidelines for the development of workplace accommodations to enable employees to remain at or return to productive and gainful employment, as appropriate.
- 1.3 The Board will endeavour to provide individualized return to work plans and workplace accommodations in accordance with the *Accessibility for Ontarians with Disabilities Act (AODA)* and the Ontario Human Rights Code (OHRC).
- 1.4 The Board will comply with the return to work requirements under the *Workplace Safety and Insurance Act (WSIA)*.

#### **2.0 Scope**

- 2.1 All employees of the Avon Maitland District School Board who experience a non-occupational or work-related injury or illness are eligible to participate in the workplace accommodation program. This includes employees who are:
  - Absent from work on paid or unpaid medical leave;
  - Receiving Workplace Safety and Insurance Board (WSIB) benefits;
  - Receiving long term disability (LTD) benefits; or
  - Continuing to work with medical limitations and/or restrictions.

#### **3.0 Definitions**

- 3.1 **Accommodation:** Reasonable changes or adjustments to an employee's duties, workplace or both to enable the employee to productively perform the essential duties of an existing job in a healthy and safe manner.

- 3.2 **Disability:** The term covers a broad range and degree of conditions, including both visible and non-visible. A disability may have been present at birth, caused by an accident, or developed over time. The Ontario Human Rights Code defines disability as:
- 3.2.1 any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness or speech impediment or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
  - 3.2.2 a condition of mental impairment or a developmental disability;
  - 3.2.3 a learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
  - 3.2.4 a mental disorder;
  - 3.2.5 or an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*.
- 3.3 **Essential Duties:** The essential duties are the fundamental aspects of a job that an employee must be able to perform with or without reasonable accommodations.
- 3.4 **Health Care Professional:** Means a healthcare provider regulated under the *Regulated Health Professionals Act* including, but not limited to, physician, specialist or surgeon, chiropractor, physiotherapist, occupational therapist, psychologist, audiologist and dentist.
- 3.5 **Return to Work Plan:** An individualized plan developed cooperatively by the employer and the employee who is seeking accommodation(s) that specifies any physical and/or cognitive restrictions associated with the disability, and the nature of any accommodation(s) or modification(s) that will be put in place at the employee's work site, or in the work itself.
- 3.6 **Undue Hardship:** The extent to which an employer must accommodate the needs of an employee on grounds protected under the OHRC. The Board must take all reasonable steps to ensure that an employee can be accommodated within the workplace; however, in some very limited cases, the Board may not be obligated to provide accommodation.

The OHRC prescribes three elements that may be considered in assessing whether an accommodation would cause undue hardship: cost, outside sources of funding, if any, and health and safety requirements, if any.

## 4.0 Responsibilities

- 4.1 Employee Responsibilities
- 4.1.1 Inform the principal/supervisor and/or the Superintendent of Education (Human Resource Services) or designate of their need for an accommodation;
  - 4.1.2 Report all injuries, illnesses or changes in medical condition to the principal/supervisor and, in the case of workplace injury or illness, fulfill the reporting obligations of Administrative Procedure 175 Reporting Hazards, Incidents and Occupational Illness;

- 4.1.3 Obtain first aid and/or medical care immediately and engage in medical rehabilitation and/or treatment that can be expected to assist in an early and safe return to work and support the ability to remain at work;
  - 4.1.4 Provide sufficient medical documentation immediately following initial medical assessment or treatment and upon request, to assist in the assessment, consideration and implementation of reasonable accommodations;
  - 4.1.5 Maintain regular contact with the principal/supervisor, Superintendent of Education (Human Resource Services) or designate, Health and Wellness Officer, health care professional(s), WSIB and/or LTD provider, where applicable;
  - 4.1.6 Cooperate in identifying and exploring workplace accommodation opportunities and developing an individualized return to work plan;
  - 4.1.7 Advise the new principal/supervisor of the existence of an accommodation plan when there is a change in the current work location or department; and
  - 4.1.8 Ensure that no tasks are being performed other than those in accordance with identified abilities, limitations and/or restrictions and promptly communicate any difficulties with the return to work plan to the principal/supervisor and Health and Wellness Officer.
- 4.2 Principal/Supervisor Responsibilities
- 4.2.1 Identify if there is reason to believe there is an accommodation need, or initiate action in a timely manner on the request of an employee for accommodation;
  - 4.2.2 Ensure that employee absences are reported in accordance with Administrative Procedure 402 Attendance Reporting (Staff);
  - 4.2.3 In the case of workplace injury or illness, ensure the employee fulfills the reporting obligations of Administrative Procedure 175 Reporting Hazards, Incidents and Occupational Illness;
  - 4.2.4 Actively participate, support and cooperate with the development and implementation of accommodations for employees with disabilities assigned to work in their school or department, adhering to all applicable legislation;
  - 4.2.5 Communicate with the employee's coworkers when required to assist or be aware of an accommodation, where and as appropriate;
  - 4.2.6 Advise the incoming principal/supervisor of the existence of an accommodation for an employee when leaving the current work location or department; and
  - 4.2.7 Ensure, to the greatest extent reasonable and practical, that no tasks are being performed other than those in accordance with identified abilities, limitations and/or restrictions and promptly communicate any concerns with the return to work plan to the Health and Wellness Officer.
- 4.3 Health and Wellness Officer Responsibilities
- 4.3.1 Obtain satisfactory medical documentation regarding the employee's medical condition, limitations and/or restrictions and progress;
  - 4.3.2 Coordinate and facilitate the early and safe return to work program including the development, implementation and monitoring of individualized accommodations;
  - 4.3.3 Prepare written return to work plans and distribute to applicable workplace parties, where appropriate;
  - 4.3.4 Provide ongoing support to the employee and principal/supervisor;
  - 4.3.5 In the case of workplace injury or illness, ensure the Employer's Report of Injury/Disease (Form 7) is submitted to the WSIB within 3 business days;
  - 4.3.6 Act as the liaison between the employee, union/association representative, health care professional(s), principal/supervisor, Human Resource Services

- personnel, WSIB, and LTD provider, as may be applicable; and
- 4.3.7 Maintain all documentation related to the early and safe return to work process in a strictly confidential manner.
- 4.4 Superintendent of Education (Human Resource Services) Responsibilities
  - 4.4.1 Overall accountability to promote and implement early and safe return to work practices and workplace accommodations in accordance with the AODA and OHRC;
  - 4.4.2 Overall accountability to ensure this administrative procedure is adhered to by principals/supervisors, employees and individuals within the workplace;
  - 4.4.3 Authority to delegate specific responsibilities identified within the Administrative Procedure to appropriate staff members in the HRS department. Such delegation shall be made in alignment with organizational protocols and shall ensure continuity of leadership, decision-making, and operational effectiveness.

## **5.0 Procedures**

The Board will make every reasonable effort, to the point of undue hardship, to accommodate employees with disabilities by modifying the duties and/or workplace to meet an employee's medically documented needs related to a disability. Cooperation and active participation by all workplace parties is required and essential to the success of any program.

- 5.1 When an employee is, or is expected to be, absent from work, has identified their need for an accommodation or is injured at work, the following steps will be taken:
  - 5.1.1 For Non-Occupational Injury or Illness:
    - 5.1.1.1 Inform the principal/supervisor or the Superintendent of Education (Human Resource Services) or designate in a timely manner;
    - 5.1.1.2 In accordance with Administrative Procedure 402 Attendance Reporting, at the discretion of the Superintendent of Education (Human Resource Services) or designate, medical documentation may be requested to support the absence, and identify any limitations and/or restrictions, expected duration of disability (prognosis) and the capability of returning to work. All medical documentation shall be forwarded to the Superintendent of Education (Human Resource Services) or designate as soon as possible following medical assessment;
    - 5.1.1.3 Where such absence extends beyond twenty (20) continuous workdays, or as may be appropriate, and where the employee has long-term disability coverage, such absence will be reported to the union/association representative or LTD provider for the purpose of early intervention.
  - 5.1.2 For Workplace Injury or Illness:
    - 5.1.2.1 The reporting process required under Administrative Procedure 175 Reporting Hazards, Incidents and Occupational Illness will be followed;
    - 5.1.2.2 The employee must obtain a copy of the WSIB Health Professional's Report (Form 8) on the initial visit with a Health Care Professional to identify functional abilities, limitations and/or restrictions, expected duration of disability (prognosis) and the capability of returning to work;
    - 5.1.2.3 The employee may be requested to obtain a copy of the WSIB Functional Abilities Form (FAF) to support the workplace accommodations process;

5.1.2.4 All medical documentation shall be forwarded to the Superintendent of Education (Human Resource Services) or designate as soon as possible following medical assessment.

- 5.2 The Superintendent of Education (Human Resource Services) or designate, may request the employee to attend an Independent Medical Evaluation (IME), Employer-Requested Health Examination (WSIB) and/or have a Functional Abilities Evaluation (FAE) completed to identify the employee's limitations and/or restrictions. This will assist in determining individualized return to work and/or workplace accommodation options. The request will follow the protocol in accordance with Administrative Procedure 402 Attendance Reporting (Staff).
- 5.3 Upon receipt of satisfactory medical documentation identifying that the employee is capable of remaining at or returning to work with limitations and/or restrictions, the Health and Wellness Officer will contact the employee's principal/supervisor to discuss appropriate accommodations and will develop an individualized return to work plan in consultation with the employee, principal/supervisor and the union/association representative (if employee chooses), where appropriate. The development of the plan could include third parties such as a WSIB Return to Work Specialist and/or a LTD Rehabilitation Consultant.
- 5.4 Individualized return to work plans and workplace accommodations will be determined based on the medically documented abilities, limitations and/or restrictions and may include, but is not limited to, the following:
- reduced or modified hours of work;
  - modification of duties;
  - workplace modification;
  - provision of assistive devices, technology, or equipment;
  - reassignment to another available position if the employee has the necessary skills and abilities to perform the essential duties of the new position.
- 5.5 An employee who is off work for an extended period of time related to ongoing injury or illness may be asked to meet with the Superintendent of Education (Human Resource Services) or designate, Health and Wellness Officer and/or their principal/supervisor before returning to work and may be required to provide periodic updated medical documentation.
- 5.6 An employee who is capable of returning to their regular duties must provide medical documentation from their health care professional indicating that the employee is capable of returning to work with no restrictions.

## **6.0 Dispute Resolution**

- 6.1 Any disputes related to return to work or workplace accommodations will be addressed in accordance with the applicable processes prescribed by the Collective Agreement, WSIB, LTD provider, and/or the Ontario Human Rights Commission, as appropriate.