


<b>Administrative Procedure Employment Accommodation</b>	
	<b>Department:</b> Corporate Services
	<b>Approved by:</b> Leadership Council
	<b>Date Approved:</b> May 13, 2024
	<b>Revision Date(s):</b>
	<b>Review Date:</b>
	<b>External References</b> <ul style="list-style-type: none"> <li>• <i>The Freedom of Information and Protection of Privacy Act (FOIP)</i></li> <li>• <i>The Health Information Protection Act (HIPA)</i></li> <li>• <i>The Saskatchewan Human Rights Code (SHRC)</i></li> <li>• <i>The Saskatchewan Employment Act (SEA)</i></li> <li>• Saskatchewan Workers' Compensation Board- Return to Work Definitions</li> </ul>
	<b>Internal References</b> <ul style="list-style-type: none"> <li>• None</li> </ul>

**Purpose**

- Saskatchewan Distance Learning Centre (Sask DLC) recognizes the rights of individuals to fully participate in employment activities without discrimination and also recognizes that there may be times when employees will have special needs that require accommodation. This administrative procedure provides guidelines on how Sask DLC will handle accommodation requests.

**Scope**

- This procedure applies to all employees of Sask DLC and persons applying for employment with Sask DLC.

**Policy Statement**

- Sask DLC is committed to removing barriers to employment for people with disabilities and others whose particular characteristics or circumstances (as protected by human rights legislation) require accommodation. Sask DLC will strive to provide accommodation in the workplace up to the point of undue hardship.

**Principles:**

- Sask DLC recognizes that it has a legal responsibility to make every reasonable effort, short of undue hardship, to accommodate employees for reasons falling within the protected categories of *The Saskatchewan Human Rights Code, 2018 (SHRC)*. Supervisors can be expected to assume some “hardship” when providing accommodation.
- Sask DLC commits itself to an accommodation process that respects the principles of dignity, privacy, inclusion and individualization. Sask DLC accommodation efforts are:

- to involve the employee, supervisor, and the union (if applicable);
  - respectful of the employee's dignity and self-esteem;
  - timely and responsive;
  - confidential;
  - flexible to meet both employee needs and operational requirements; and,
  - individualized to the specific needs of the employee and job requirements.
- When a Sask DLC employee requests a job accommodation that falls under the SHRC prohibitive grounds, Sask DLC will gather all necessary information to determine the extent of accommodation required. Although the employer bears the primary responsibility for duty to accommodate, it is a joint process between the employer, the employee, and if applicable, the union.
  - The employee requesting an accommodation is expected to participate in the accommodation process and must consider all options for reasonable accommodation. Efforts to actively obstruct or undermine the accommodation process or rejection of a reasonable accommodation may relieve Sask DLC from its duty.

## **Procedures:**

1. Accommodation Requests
  - a. Request for accommodation can be initiated by the employee or supervisor.
2. Employee – Initiated Request for Accommodation – Non-Disability:
  - a. Employees seeking accommodation for other protected grounds, including religious or family requirements should consult with Human Resources.
3. Employee – Initiated Request for Accommodation – Disability
  - a. An employee may request an accommodation through their immediate supervisor (which shall be raised to the applicable Division Head); or through the union.
  - b. Human Resources will be responsible for the accommodation process, in consultation with management and the union where applicable. Unionized employees have the option to seek union representation through the process. Out-of-scope employees have the option to select their own support person to assist them through the process.
4. Right of Employer to Request Pertinent Information
  - a. A request for an accommodation for medical reasons must be substantiated by the employee's health care provider (HCP) and include objectively assessed medical restrictions and prognosis. The assessment is to be completed on a form prescribed by Sask DLC. In certain circumstances, the employer may require the employee to attend a physician of the employer's choice, at the employer's expense.

- b. Sask DLC shall seek, and is entitled to, only medical information in relation to the limitations and restrictions to job duties and shall not request medical information regarding the actual nature of the illness unless such information is critical to the accommodation. Sask DLC is not entitled to diagnosis or medications unless such information is critical in providing support for recovery and the job accommodation process.
- c. Duty to Accommodate requests that fall under other protected categories may require supporting documentation and clarification prior to the request being considered.

#### 5. Disability Case Management Process

- a. Sask DLC follows a consistent case management approach for all situations (occupational and non-occupational illness and injury) to effectively accommodate employees with temporary or permanent restrictions, maintain duty to accommodate responsibilities and provide support for recovery.

#### 6. Evaluation of the Employee's Limitations and Restrictions

- a. Once the need for accommodation has been verified the employer will evaluate the employee's limitations and restrictions as they relate to the workplace. This evaluation may involve obtaining information or assistance from a third party. The parties will work together to find a viable solution. The final solution may not necessarily be the first option considered.
- b. An important consideration when evaluating limitations and restrictions in terms of operational requirements is whether an accommodation situation is short or long term. A short-term need may be easily met; however, a longer-term situation may require a more complex planning process.

#### 7. Establishing Job Accommodation

- a. Employment opportunities offered to employees will be commensurate with the employee's knowledge, skills, and abilities and in consideration of the requirement to maintain a safe and productive workplace. Sask DLC will follow the obligations of the duty to accommodate and the *Saskatchewan Human Rights Code, 2018*.
- b. In all cases, efforts will be made to accommodate an employee who is unable to perform the duties of their position. The first consideration for accommodation will be within their originating position, department, and location. Determining accommodation for employees will be based upon considerations in the following order:
  - i. review of the duties of the employee's current job and the work area to determine if modifications will sufficiently accommodate the employee's need while fulfilling the core job duties;
  - ii. alternate suitable vacant positions within the employee's department, pay range and location;

- iii. alternate suitable vacant positions within the employee's pay range and outside the department or location; and,
- iv. alternate suitable vacant positions at a pay range lower than the employee's range.
- c. The job accommodation is based on the restrictions and limitations provided by the employee's HCP and determined by the supervisor and/or Human Resources Consultant in consultation with the employee and the union (if applicable). Options may be limited by factors such as the nature of work, operational requirements and cost. Sask DLC is not required to create a job that suits an employee's abilities nor is Sask DLC required to pay an employee for work the employee is unable to perform. The duty to accommodate does not extend to performance problems.
- d. The union's role is primarily to facilitate the accommodation process so that the employer can make a reasonable accommodation plan that is successfully implemented for the employee's benefit. This may require the union to communicate on behalf of the employee or be flexible in the application of the collective agreement.

#### 8. Determination of Accommodation within the Existing Position

- a. It will be the intent of Sask DLC to accommodate an employee within their existing position and job status wherever possible. Accommodation may include:
  - i. re-bundling job duties;
  - ii. modification of work processes or methods;
  - iii. adjustment of hours of work or rest periods including status change (ex. From full-time to part-time) if the condition is expected to be permanent;
  - iv. provision of assistive devices (ergonomic assessment, etc.); and,
  - v. provision of training.
- b. To accommodate employees with temporary restrictions, the supervisor may use transitional work assignments.

#### 9. Exploring Accommodation in Alternate Positions

- a. If an alternate vacancy is available, the following factors will be considered:
  - i. employee classification and salary level;
  - ii. knowledge, skills and abilities of the employee;
  - iii. limitation(s) and restriction(s) of the employee;
  - iv. transferable skills;
  - v. operational requirements;
  - vi. collective agreements provisions; and,
  - vii. undue hardship to the organization.
- b. When a vacancy does arise, the aforementioned factors will be applied in respect to the employee at that point.

#### 10. Exhaustion of Accommodation Measures

- a. The objective of Sask DLC, the employee and the union is to explore all possible accommodation measures and to facilitate the best accommodation. This does not necessarily guarantee the “perfect solution”, or the exact solution requested from the employee.
- b. Once reasonable accommodation is in place, further accommodation will only be considered if the reason for the original accommodation changes. Human Resources may request periodic reviews from the attending HCP concerning the accommodation.
- c. A reasonable accommodation does not mean all of the employee’s preferences will be met. If a reasonable offer is declined by the employee for reasons other than medical, the employer’s duty to accommodate has been met. In this situation the supervisor should consult Human Resources to determine if this is the case.

#### 11. Non-Culpable Behaviour and the Duty to Accommodate

- a. An employee who cannot meet existing performance standards due to the existence of a disability requiring accommodation, cannot be disciplined for not meeting those standards. However, the employee may be disciplined for behaviour not related to the disability that is within their control to change. Non-competence is an example of non-culpable behaviour. If non-competence is due to a medical condition, it may or may not be accompanied by a pattern of absenteeism/lateness.
- b. Sask DLC may at any time, remove from work any employee whose medical condition:
  - i. clearly renders them unfit for duty; and/or
  - ii. where presence at work would clearly constitute a real and immediate danger to the employee, the supervisor, or other employees or clients.

#### 12. Confidentiality

- a. The privacy of employees will be respected. The personal information collected for the administration of this policy will only be used by or disclosed to individuals who need the information to perform the duties of their position. The amount of information shall be limited to that which is reasonably required to achieve the purpose. Individuals who have been given access to the information are responsible to:
  - i. treat the information as confidential and shall not further disclose the information to any other party;
  - ii. use the information only for the purpose of providing a service or making a decision; and,
  - iii. safeguard the information from further access (whether intentional or unintentional).

#### 13. Appeal Process

- a. An out-of-scope employee who is not satisfied with the result of their request for accommodation may appeal to the Chief Executive Officer (CEO) in writing. The CEO will respond in writing within six weeks indicating a final ruling on the appeal.

- b. An in-scope employee who is not satisfied with the result of their request for accommodation may access the relevant grievance process.
- c. Any employee who is not satisfied with the result of their request for accommodation has the option to pursue remedies available through other sources, including but not limited to Saskatchewan Human Rights Commission and Employment Standards.

#### 14. Other Options Available

- a. An employee faced with the need for accommodation has a number of other options available to them such as severance or retirement. These options are not to be entered into lightly. Employees are encouraged to fully research and review these options before making a request. For in-scope employees, you can review your Collective Bargaining Agreement and consult with the Union Chair. For out-of-scope employees, contact Human Resources. All employees should review available benefit plan information.

#### 15. Responsibilities

- a. The search for accommodation is a multi-party obligation with varying levels of responsibility. The parties that must actively participate are the employer, the union (if applicable), and the employee.
- b. Sask DLC is responsible to:
  - i. reasonably accommodate an employee who falls within the protected categories of the SHRC unless it would cause undue hardship to Sask DLC;
  - ii. explore all options available;
  - iii. manage each accommodation request on its own merits;
  - iv. deal with accommodation requests in a timely fashion;
  - v. request only medical and related information that is required to make the accommodation and bear the cost if any required; and,
  - vi. assist in identifying alternative funding options, if available, (such as supernumerary pay, assistive devices, etc.).
- c. Employees are responsible to:
  - i. inform Sask DLC of their need for accommodation including providing medical or other required documentation on a timely basis;
  - ii. actively participate in the return-to-work or stay-at-work process to ensure that it is safe, suitable and sustainable by reporting illness or injury as soon as possible;
  - iii. contribute to the development of a return-to-work plan, complying with recommendations of treatment providers;
  - iv. take personal responsibility for maintaining health and mental wellbeing and advising the supervisor of any change in circumstances during the return-to-work process;
  - v. assist in evaluating appropriate accommodations;
  - vi. may assist in identifying alternative funding options, if available, (such as supernumerary pay, assistive devices, etc.);

- vii. work with Sask DLC and the union (if applicable) on an ongoing basis to manage the accommodation process; and,
  - viii. advise Sask DLC and the union (if applicable) of any changes or new information that may be relevant to their accommodation.
- d. The union is responsible to:
- i. assist in the accommodation process of an in-scope employee and cooperate to make accommodation possible, which may include overriding collective agreement provisions,
  - ii. jointly promote with the employer the accommodation process; and,
  - iii. assist in identifying alternative funding options, if available, (such as supernumerary pay, assistive devices, etc.).

#### 16. Getting Help

- a. The employee, the employee's supervisor and the following corporate resources may assist in determining the specifics of the accommodation: Executive Director, Human Resources, Finance and Planning Department; Director, Human Resources Unit; Human Resource Consultants; and Union Representatives.

#### Definitions:

1. **Personal Information:** Refers to any information about an identifiable individual, including but not limited to name, address, contact details, employee identification numbers, health records, financial information, academic records.
2. **Objective Medical Evidence:** Refers to visible, measurable findings obtained by a medical examination, tests, or diagnostic imaging.
3. **Medical Restrictions and Limitations:** Refers to clear and specific limits, including, but not limited to, specific work activities, exposures, body motions, positional tolerances (i.e., ability to sit, stand, stoop for a protracted time, etc.), timeframes, lifting and material handling capabilities.
4. **Health Care Provider:** Refers to a physician, dentist, chiropractor, optometrist, psychologist, occupational therapist, physical therapist, nurse or any other person who is registered or licensed pursuant to any Act to practice any of the healing arts.