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Employment Accommodation

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Preamble

The Saskatchewan Human Rights Code (SHRC) protects the rights of individuals to fully participate in employment activities without discrimination. Accommodation may be required to ensure these rights.

As an employer, the Government of Saskatchewan has a legal responsibility to:

- Make reasonable accommodations in an employee's home position if possible;
- Explore all options for reasonable accommodation; and
- Ensure that ongoing accommodation efforts meet the requirements of the SHRC, *Labour Standards Act*, *Occupational Health and Safety Act*, *Freedom of Information and Privacy Act*, *Health Information Privacy Act* and *The Worker's Compensation Act*.

This policy deals with accommodation of persons with disabilities. The policy and guidelines are intended to help managers meet the employer's legal obligations, providing reasonable accommodation and/or return to work options for employees.

Note: Employees seeking accommodation for religious or family requirements should consult the following policies: [#702-1 Pressing Necessity and Family Leave](#).

Privacy

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:

- Treat the information as confidential and shall not further disclose the information to any other party;
- Use the information only for the purposes of providing a service or making a decision;
- Safeguard the information from further access (whether intentional or unintentional).



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Application:

This policy applies to:

- All employees appointed under *The Public Service Act* and;
- Persons with disabilities applying for employment with the Government of Saskatchewan.

For employees:

Accommodation may be required to assist an employee to stay at work while experiencing limitations and managing symptoms of an illness or injury or to assist an employee who is away from the workplace due to illness or injury return to work as soon as they are able to perform meaningful, productive work safely within medical restrictions. Requests for accommodation must be supported by medical documentation which clearly states the need for an accommodation and any medical restrictions.

For job applicants with disabilities:

The employer is required to provide reasonable accommodation upon identification of need, during the assessment process (interviews, skill testing, etc.) and explore all reasonable accommodation options for employment to the point of undue hardship, where supporting medical documentation is provided.

Policy Statement:

The Government of Saskatchewan is committed to an inclusive workplace supporting a diverse and representative workforce. We will respond to the needs of persons with disabilities by removing discriminatory barriers to equal participation and enjoyment in employment, up to the point of undue hardship in accordance with the SHRC.

Values and Principles:

The Government of Saskatchewan recognizes that persons with disabilities may encounter barriers to employment. We value the diversity of our employees, strive to eliminate discriminatory barriers and honour our duty to accommodate. Accommodation may entail changes in physical settings, policies and practices and includes workplace accommodations and/or return to work plans that enable employees to perform to the full extent of their abilities.

Accommodation efforts are:

- Cooperative and involve the employee, managers, the union (if appropriate) and co-workers;



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- Respectful of the employee's dignity and self esteem;
- Timely and responsive;
- Confidential to the greatest extent possible;
- Flexible to meet both employee needs and operational requirements; and
- Individualized to the specific needs of the employee and job requirements.

Roles and Responsibilities in the Accommodation/Return to Work Process:

The goal of a successful accommodation and/or return to work calls for a cooperative working relationship between the parties involved (the employer, employee, the union, and other stakeholders such as the insurer representative, the health care provider).

The employer has the primary responsibility for ensuring an appropriate and reasonable accommodation, because they have control of the workplace and can allocate resources and implement options. While Government is considered one employer, the home ministry has the greatest responsibility for their employees.

Employer Representative (Director or Manager):

Works with the employee and other stakeholders who may be involved, such as the human resource consultant (HRC), health care providers, the union and the insurer to:

- Maintain close contact with the employee while searching for appropriate work assignments/accommodations;
- Identify options for accommodations;
- Develop and implement a reasonable accommodation plan;
- Anticipate the employee's return to work readying the workplace, exploring, arranging and paying for costs associated with the required accommodation that may not be covered by the insurer;
- Communicate the intent of the accommodation to other employees in a sensitive, respectful and confidential manner;
- Identify the option of union representation, if appropriate, to the employee;



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- If the employee is medically unable to return to their previous position with accommodation, seek other accommodations within the work unit, the branch, division, ministry and other ministries, as necessary;
- (For in scope/SGEU members) Undertake bumping or salary guarantee payments, if a reasonable accommodation is not found within the ministry or service wide within the Phase 1 time line.

Employee:

- Provides medical verification to the employer of the need for an accommodation, including clear documentation of medical restrictions;
- Where an alternate position is required, provides an updated and comprehensive resume and brings forward information about appropriate placement options they may be aware of and wish to explore;
- Participates and cooperates with the employer and other stakeholders in any efforts to determine an appropriate and reasonable accommodation without expecting a “perfect” solution; and
- Determines whether to involve union representation, if appropriate.

Human Resources Consultant:

- Provides advice and guidance to the supervisor or manager regarding medical accommodation and return to work process;
- Assists in exploring appropriate accommodations within the ‘home’ work unit, the ministry, broadening the search to other ministries, as required;
- Assesses the employee’s competencies, transferable skills and restrictions considering the obligations of medical accommodation.

Public Service Commission Accommodation/Return to Work Consultant:

- Develops program, policy, process and tools;
- Provides advice, guidance, and education/awareness on medical accommodation and the return to work program, process and policy to human resources and managers; and



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- Where the employee is unable to be reasonably accommodated in their previous position or within their home ministry, may act as a liaison between human resource service teams in the exploration of potential accommodations service wide.

Insurance Plan Representative (Long-Term Disability, Worker's Compensation Board, Saskatchewan Government Insurance):

- May make the initial referral to the employer to advise of readiness to return to work and provide information clearly outlining the medical restriction(s);
- May assist in the clarification of the restriction information by consulting with the health care provider to clarify the restrictions; and
- Works with the employee and employer to develop and monitor a return to work plan, based on medical opinion and fully approved by a Health care provider, ensuring a safe and successful return to work.

Union Representative (may be the shop steward or an AAA):

- Represents the employee's interests during the rehabilitation placement process, as needed. Involved at the employee's request.

Re-employment List Coordinator:

- Coordinates the service wide re-employment list to which employees returning to work from disability or illness are referred for potential placement options; and
- Reviews advertisements for posting, determining if there may be qualified candidates from the list, providing managers with resumes for review of qualifications, requesting further information from the employee as needed.

Co-workers/Colleagues:

- A supportive workplace is important for an accommodation to succeed. Co-workers may be required to make adjustments to their work as part of an accommodation. While considering the privacy needs of the employee who is being accommodated, co-workers may need information on the duty to accommodate in general; ie. accommodation is not "special treatment", rather it



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allows persons with special needs to fully participate in the workplace.

- The employee concerned should direct what information they feel comfortable in sharing with their colleagues.

Authorities:

There are various sources from which the duty to accommodate arises, including:

- Saskatchewan Human Rights Code
 - 2 (1) d(1) – Definition of a Disability
 - 2(1)(m.01) – Prohibited Grounds
 - 16 (1) – Discrimination prohibited in Employment
- Labour Standards Act
 - Section 44.2
 - Section 44.3
- Occupational Health and Safety Act
 - Section 3 a)

Collective Bargaining Agreements:

- Saskatchewan Government and General Employees Union PS/GE
 - Article 24 – Rehabilitation
 - Article 26.1 – Discrimination
 - LOU 09-1
- Canadian Union of Public Employees Local 600
 - Article 3.03 – No Discrimination or Harassment
 - LOU #2009-03