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Policy Title: **Duty to Accommodate**

Last Approved: **October 2023**

BACKGROUND

The Association is committed to providing all employees with a healthy and safe work environment. The Association has a duty to accommodate ill, injured or disabled employees and is committed to returning them to a safe and productive job and work environment. Employers have a legal obligation to ensure they do not discriminate against an employee on the basis of a prohibited ground, in this case a disability.

The Saskatchewan Human Rights Code, 2018 requires employers to accommodate employees who require an accommodation due to a disability. *The Saskatchewan Employment Act* requires the employer to modify or reassign duties based on medical restrictions if, due to those restrictions, the employee cannot perform parts or all of their job duties, up to the point of undue hardship.

APPLICATION

This policy applies to all Association employees.

POLICY STATEMENT

DEFINITIONS

Note: the following definitions are as per *The Saskatchewan Human Rights Code, 2018*.

Disability - any degree of physical disability, infirmity, malformation or disfigurement, including:

- a. (i) epilepsy;
- (ii) any degree of paralysis;
- (iii) amputation;
- (iv) lack of physical coordination;
- (v) blindness or visual impediment;
- (vi) deafness or hearing impediment;
- (vii) muteness or speech impediment; or
- (viii) physical reliance on a service animal, wheelchair or other remedial appliance or device; or
- b. any of the following disabilities:
 - (i) an intellectual disability or impairment;
 - (ii) a learning disability, or a dysfunction in one or more of the processes involved in the comprehension or use of symbols or spoken language; or
 - (iii) a mental disorder.

Undue Hardship - means intolerable financial cost or disruption to business having regard to the effect on:

- (a) the financial stability and profitability of the business undertaking;

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(b) the value of existing amenities, structures and premises as compared to the cost of providing proper amenities or physical access;

(c) the essence or purpose of the business undertaking; and

(d) the employees, customers or clients of the business undertaking, disregarding personal preferences;

but does not include the cost or business inconvenience of providing washroom facilities, living quarters or other facilities for persons with physical disabilities if those facilities must be provided by law for persons of both sexes.

PRINCIPLES

- Accommodation is a fundamental legal obligation by the Association. Accommodation is both a right of the employee and a duty of the Association.
- Accommodation requires flexibility on both the Association and the employee.
- Each accommodation is unique to the circumstances.
- Accommodated employees are still expected to fulfill the requirements of their job duties keeping in mind, any medical restrictions to those job duties.

PROCEDURES

a. Initiation of an Accommodation

An accommodation can be initiated by either the Association or the employee including but not limited to the following:

- i. The employee advises their Director that the employee has a limitation or restriction caused by a disability that requires accommodation and:
 1. The employee continues to work during the period of time the accommodation process is underway; or
 2. The employee is absent from work on sick leave or an approved leave and requires a return-to-work plan.
- ii. The Association observes the employee having difficulty meeting their job requirements and has reasonable grounds to believe the difficulty may be due to a disability that requires an accommodation. In such a case, the Association has a “duty to inquire” in order to determine how to accommodate the employee.

b. Obligation of the Association

After an illness, injury or disability occurs, the return-to-work process begins immediately. The employee’s Director may ask for medical information in the form of restrictions in order to determine the appropriate accommodation plan up to the point of undue hardship.

c. Obligation of the Employee

In order to determine what accommodation is required, the employee will:

- i. Demonstrate there is a disability verified by a medical practitioner;
- ii. Identify the need for an accommodation through their Director;

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- iii. Provide the Association with timely, sufficient, appropriate medical restrictions including the anticipated duration. The medical restrictions do not require disclosure of the diagnosis of the condition.
 - iv. Participate and cooperate throughout the accommodation process;
 - v. Take the medically recommended steps towards rehabilitation and self-improvement; and
 - vi. Try the proposed accommodation, acknowledging that the appropriate accommodation may not be the accommodation of the employee's choice. Depending on the situation, further medical information may be required, resulting in alterations to the accommodation plan.
- d. All medical information supplied by the employee will be treated as confidential by all parties involved in the accommodation process in accordance with applicable privacy legislation. Employee's personal information will only be shared with those necessary in the accommodation process.

REFERENCES