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<b>Date of Issue</b>	November 2011
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<b>Subject</b>	<b>DISABILITY RELATED WORKPLACE ACCOMMODATION</b>
<b>References</b>	Human Rights Code (Ontario) Workplace Safety & Insurance Act (Ontario) Accessibility for Ontarians with Disabilities Act
<b>Links</b>	APM A4001 Return to Work by Ill and Injured Employees APM A4007 Workplace Safety and Insurance Board (WSIB) Claims
<b>Contact</b>	Human Resource Services

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## 1. Purpose

- 1.1 The Simcoe County District School Board recognizes and accepts its legal responsibility under the Ontario Human Rights Code (OHRC) to accommodate individualized needs of persons with a disability, as defined under the OHRC, in order to assist them in performing the duties of his/her position. Accommodation will be individualized and will be based on the employee's physical, emotional and/or intellectual abilities. Accommodation will be provided in a manner that respects the individual's dignity and that maximizes the employee's integration and participation in the workplace.
- 1.2 The Simcoe County District School Board is committed to developing an inclusive barrier-free work environment in which persons with disabilities have equal access to opportunities and all employees feel included and valued. The board will make every reasonable effort to arrange meaningful and appropriate accommodation for employees with disabilities.
- 1.3 The purpose of this procedure is to provide guidelines for the accommodation of employees in the workplace and to ensure a systematic and integrated application with respect to accommodating employees in the workplace. It will also provide guidance in the identification and support of employees requiring assistance, and develop proactive and preventative measures.

## 2. Definitions

- 2.1 Accommodation  
Accommodation is defined as an adaptation or adjustment to enable the employee with a disability to perform the essential duties of the job. The period of accommodation may be temporary or permanent, depending on the particular circumstances. Accommodation does not necessarily require that the essential duties of the job be changed to meet the needs of the employee. Non-essential duties which cannot be performed may be adjusted or reassigned.



If an employee cannot perform the essential duties in his/her existing position, accommodation may be made in other positions. The board will consider the following factors in this process: seniority, availability, qualifications, and legislative or contractual obligations. The nature of accommodation varies depending on the duration of the accommodation request, the applicable legislation, and the specific needs of the individual. Guidelines include the following:

Accommodation may include, but is not limited, some or all of the following:

- 2.1.1 Removing a physical barrier;
- 2.1.2 Providing an assistive device, such as those related to hearing, vision, mobility, and speech;
- 2.1.3 Modification of duties of the position;
- 2.1.4 Re-assigning the employee to another position if he or she has the necessary qualifications, skills and abilities to perform the essential duties of the position;
- 2.1.5 Reducing hours of work;
- 2.1.6 Reduction of contract.

## 2.2 Reasonable Accommodation

Both the Ontario Human Rights Commission and the Workplace Safety and Insurance Board (WSIB) view the board as a single employer, and the term “reasonable” accommodation is then interpreted in a manner consistent with the resources of the entire board. Therefore, both the employing work location and central administration of the board have a role in providing accommodation to employees with disabilities to the point of undue hardship.

- 2.2.1 Reasonable accommodation does not require the board to create a new job;
- 2.2.2 Reasonable accommodation does not require the board to remove essential duties of the job or to change the job such that it becomes a substantially different one;
- 2.2.3 Reasonable accommodation is intended to assist the employee to meet performance standards. The disabled employee is entitled to an equal opportunity to perform the job in accordance with the same standards as expected of other employees;
- 2.2.4 Reasonable accommodation respects the dignity of the disabled employee. However, the disabled employee seeking accommodation cannot necessarily expect a perfect solution.

## 2.3 The Accommodation Plan

The Accommodation Plan is a documented, individualized plan which will:



- 2.3.1 Assess and accommodate employees on an individual basis;
- 2.3.2 Identify the accommodations to be provided;
- 2.3.3 Include the duration for the provision of accommodations, as well as anticipated start, end and review dates;
- 2.3.4 Include individualized workplace emergency information, where appropriate;
- 2.3.5 Include signatures of all parties involved;
- 2.3.6 Be retained in the employee's medical file in Human Resource Services – Compensation and Wellness.

#### 2.4 Appropriate Medical Documentation

Appropriate medical documentation related to the disability related workplace accommodation should support a disability, as defined under the OHRC, and outline the medical restrictions and limitations that prohibit the employee from performing the essential duties of his/her position. The employer is required to bear the cost of any required medical information or documentation related to accommodation needs.

Medical documentation will be retained in the employee's medical file in Human Resource Services – Compensation and Wellness for the period of accommodation and it should not be retained in a department/school file.

#### 2.5 Disability

The broad definition for disability is described in the Ontario Human Rights Code (OHRC) as:

- 2.5.1 “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, including diabetes mellitus, epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or on a wheelchair or other remedial device;
- 2.5.2 A condition of mental retardation or impairment
- 2.5.3 A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols of spoken language;
- 2.5.4 A mental disorder; or
- 2.5.5 An injury or disability for which benefits were claimed or received under the Workplace Safety & Insurance Act.

#### 2.6 Essential Duties



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Essential duties are those which constitute the primary purpose of the position. In order to determine the essential duties of a position, consideration is given to the duties necessary to produce the final product or service required. A detailed job description as well as Physical Demands Analysis (PDA) or a Cognitive Demands Analysis (CDA), may be used or sought to assist in defining the essential duties of a position.

**2.7 Return to Work (RTW) Plan**

When an employee is returning from a Long Term Disability (LTD) leave, the LTD provider develops a Return to Work Plan. The Return to Work Plan is an accommodation plan that outlines the employee's restrictions and limitations, and suggested workplace accommodation(s).

The Return to Work Plan shall be retained in the employee's medical file in Human Resource Services – Compensation and Wellness.

**2.8 Undue Hardship**

The Simcoe County District School Board has a duty to accommodate unless to do so would cause undue hardship, as defined in the OHRC. Undue hardship for an organization is generally related to two (2) factors: cost and safety.

**2.8.1** Costs may amount to undue hardship if they are quantifiable and directly result in substantially decreased productivity, efficiency and effectiveness of the organization. If the accommodation requires the business to fundamentally change what they do, that may also be considered to be undue.

**2.8.2** Health and safety requirements may constitute undue hardship where attempts have been made to maximize protection but the risks remaining after accommodation outweigh the benefits enhancing the employee's opportunity. A potential conflict between the employer's significant legal responsibility for health and safety in the workplace and the employer's duty to implement accommodation in the workplace can arise:

**2.8.2.1** Where an accommodation requirement conflicts with prescribed safety precautions, for example, an inability to use certain safety equipment or follow certain procedures; and/or

**2.8.2.2** Where the presence of certain accommodated employees in the workplace poses potential risks to other workers.

**2.9** The Human Resource Services Officer (HRS Officer) in the Compensation and Wellness team within the Human Resource Services Department is the individual responsible for coordinating the accommodation process for non-occupational illness and injuries.



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- 2.10 For the purpose of this procedure, supervisor is defined as an individual who has charge of a workplace or authority over a worker, such as a superintendent, principal, manager or supervisor.

### 3. General Roles and Responsibilities

- 3.1 The employee with a disability is required to:

- 3.1.1 Request accommodation of a disability;
- 3.1.2 Make their needs known to the best of their abilities, in writing, in order that the requested accommodation can be considered;
- 3.1.3 Answer questions or provide information regarding relevant restrictions or limitations including information from health care professionals where appropriate, and as required. Medical documentation is required to support a disability as defined under the OHRC, and to support the request for accommodation;
- 3.1.4 Participate in discussions regarding possible accommodation solutions;
- 3.1.5 Cooperate with any experts whose assistance is required to manage the accommodation process;
- 3.1.6 Work with the HRS Officer, the supervisor and the union on an ongoing basis to manage the accommodation process;
- 3.1.7 Discuss the disability with only persons who need to know.

- 3.2 In accordance with the OHRC, unions and professional associations are required to:

- 3.2.1 Respond to an employee seeking support regarding a workplace accommodation;
- 3.2.2 Share joint responsibility with the employer to facilitate accommodation;
- 3.2.3 Take an active role as partners in the accommodation process;
- 3.2.4 Support accommodation measures irrespective of collective agreements, unless to do so would create undue hardship.

- 3.3 The employer is required to:

- 3.3.1 Accept the employee's request for accommodation in good faith, unless there are legitimate reasons for acting otherwise;
- 3.3.2 Obtain expert opinion or advice as required;
- 3.3.3 Take an active role in ensuring that alternative approaches and possible accommodation solutions are investigated, and canvass various forms of possible accommodation and alternative solutions, as part of the duty to accommodate;
- 3.3.4 Keep a record of the accommodation request and actions taken;



- 3.3.5 Maintain confidentiality;
- 3.3.6 Limit requests for information to those reasonably related to the nature of the restriction or limitation so as to be able to respond to the accommodation request;
- 3.3.7 Grant accommodation requests in a timely manner, to the point of undue hardship, even when the request for accommodation does not use any specific formal language.

#### 4. Procedures

##### 4.1 Initiation

- 4.1.1 Employees requesting workplace accommodation are required to provide appropriate medical documentation to the HRS Officer. The HRS Officer will determine if additional medical documentation is required, and notify the employee if necessary. The employee will be responsible for the cost of the first such medical documentation acceptable by the SCDSB, and thereafter the SCDSB will bear the cost of any required medical information or documentation (e.g. doctors' notes and letters setting out accommodation needs) up to a reasonable and customary fee of \$25.00.
- 4.1.2 Supervisors may also notify the HRS Officer of employees who appear to be appropriate candidates for workplace accommodation. This can be determined through discussions regarding employee absences, work performance, etc. The HRS Officer will follow-up with the employee to determine if workplace accommodation and supporting medical documentation are required.
- 4.1.3 Although it is expected that the employee will take primary responsibility for initiating the need for accommodation, there may be some cases where the initiation for accommodation will come from the supervisor, an LTD provider, the WSIB or another source.

##### 4.2 Notification and Verification

- 4.2.1 Employees are required to provide sufficient information (medical or otherwise) that is required by the board to assess the issues relevant to pursuing accommodation initiatives.

*Ontario Human Rights Commission (OHRC) Guidelines on Accommodation clearly state:*

*“the person requesting accommodation must communicate his or her needs in sufficient detail and cooperate in consultations to enable the person responsible for accommodation to respond to the request”.*

- 4.2.2 The duty to accommodate necessitates that the employer develop individual accommodations based on medical restrictions/limitations in conjunction with operational requirements while maintaining consistency of programming for our students. An employee or physician can not



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prescribe an accommodation. The board may request outside evaluation, at its own expense, by medical or other experts to assist in determining accommodations needed, where appropriate.

4.3 Application

4.3.1 Each employee with a disability will be considered individually in order to determine what changes can be made to facilitate accommodation.

4.3.2 The present capabilities of the employee and the risks associated with the work are taken into account, rather than anticipating future changes in abilities or risks.

4.4 Implementation

4.4.1 The HRS Officer notifies the supervisor of the employee's restrictions and limitations, and determines if the employee can be accommodated in his/her current position/assignment.

4.5 Uncomplicated Accommodation Within the Department/School/Work Unit

4.5.1 If the employee is able to be accommodated in his/her current position/assignment with minimal modification/change, the HRS Officer and the supervisor will develop an Accommodation Plan. This plan will be sent to the supervisor for discussion with the employee. The plan will be signed off by the employee and the supervisor and sent back to the HRS Officer.

4.6 Complex Accommodation Within the Department/School/Work Unit

4.6.1 If significant modifications/changes are required to accommodate the employee in his/her current position/assignment, a meeting will be scheduled by the HRS Officer, and will include the employee, supervisor, union representative (if applicable). An Accommodation Plan will be discussed and signed off by all parties present at the meeting.

4.7 Complex Accommodation Outside of the Department/School/Work Unit

4.7.1 If an alternate position/assignment is available the HRS Officer will make a written job offer to the employee. If the employee accepts this offer, a meeting will be scheduled by the HRS Officer, and will include the employee, supervisor, other workplace parties as required, and union representative (if applicable). An Accommodation Plan will be discussed and signed off by all parties present at the meeting.

4.7.2 If the employee does not accept the alternate job offer, the HRS Officer will advise the employee that he/she will be on a paid or unpaid medical



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leave, and that he/she will need to provide appropriate medical documentation to support his/her inability to work in the alternate position, and to maintain their employment status with the board.

4.7.3 If no alternate position/assignment is available, the HRS Officer will advise the employee that he/she will be on a paid or unpaid medical leave, and that they will need to provide appropriate medical documentation to maintain his/her employment status with the board. The HRS Officer will continue to work with other workplace parties to determine if any appropriate positions/assignments become available.

4.7.4 The HRS Officer will advise the employee that prior to a return to work, or return to previous position/assignment, appropriate medical documentation certifying that he/she is able to return to work in his/her full capacity, or specifying limitations to full return, will need to be provided to the HRS Officer, as per APM A4001 – Return to Work by Ill and Injured Employees.

4.8 The employee will notify the supervisor and the HRS Officer if there is any change to his/her medical condition, or if he/she is experiencing any difficulties with the assigned duties on the accommodation plan. If required, the HRS Officer will schedule a follow-up meeting with the employee, supervisor, other workplace parties as required, and union representative (if applicable).

4.9 Requests for updated medical documentation will be requested by the HRS Officer on an annual basis for permanent accommodations, or as required for temporary accommodations (based on the duration provided in previous medical documentation). The employee will be required to provide appropriate up to date medical documentation to support the ongoing requirement for a workplace accommodation(s), as well as confirm the existence of a disability, as defined under the OHRC. The SCDSB will bear the cost of any required medical information or documentation (e.g. doctors' notes and letters setting out updated accommodation needs) up to a reasonable and customary fee of \$25.00.

## 5. Provision of equipment

Appropriate medical documentation is required to support the need for specialized equipment and assessment. Equipment may include specialized furniture items or assistive technology devices.

5.1 Employees are required to provide appropriate medical documentation to the HRS Officer, outlining the need for specialized equipment. The HRS Officer will determine if additional medical documentation is required, and notify the employee if necessary.

5.2 The HRS Officer recommends equipment which may be required, through discussion with the employee, supervisor and/or through a workplace



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assessment. The employee may be required to perform periodic preventative maintenance on the equipment.

### 5.3 Furniture

5.3.1 Furniture items recommended through the workplace assessment, such as desks, chairs, cabinets, footstools, etc. will be purchased by the school.

5.3.2 The HRS Officer contacts the supervisor to discuss recommended purchases, supplier information and the approximate cost. The supervisor shall requisition the furniture and advise the HRS Officer when the furniture is delivered to the employee. The HRS Officer will provide adjustments and alterations as necessary, and determine if further follow-up is required.

### 5.4 Assistive Technology Devices

5.4.1 Assistive technology devices may include, but are not limited to, voice amplification systems, computers and/or accessories, computer software and mobility devices.

5.4.2 The HRS Officer will consult with IT Services, Special Education Services, and/or other necessary service providers/consultants to determine the most appropriate assistive device(s).

5.4.3 Human Resource Services, Compensation and Wellness, will purchase the most appropriate assistive device(s). The HRS Officer will arrange with the appropriate service provider for installation and/or training.

5.5 The employee will notify the HRS Officer of any change to his/her employment status (i.e. a transfer to another school, change in medical condition, they no longer require the equipment, statutory leave, resignation/retirement).

5.5.1 If the employee transfers to a new work location the HRS Officer will arrange for the equipment to be transferred to the new location.

5.5.2 Should the employee resign/retire, the HRS Officer will arrange for the return of the equipment.

5.5.3 Should the employee take a statutory leave, the HRS Officer will arrange for the return of the equipment. If the employee requires the equipment upon return from their statutory leave, appropriate medical documentation must be provided to the HRS Officer.

5.6 The employee will sign a Workplace Accommodation Supply Form to acknowledge receipt of equipment and confirm their understanding of expectations outlined in Section 5.5. The Workplace Accommodation Supply



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Form shall be retained in the employee's medical file in Human Resource Services, Compensation and Wellness.

**6. Employees Returning from Long Term Disability**

6.1 The Long Term Disability (LTD) provider will notify the HRS Officer with respect to the employee's anticipated return to work and request for accommodation.

6.2 The LTD provider will develop a Return to Work Plan, which outlines the employee's restrictions and limitations, and suggested workplace accommodation(s).

6.3 The HRS Officer advises the supervisor of the employee's restrictions and limitations. The HRS Officer and the supervisor determine whether or not the employee can be accommodated in his/her current position/assignment.

6.4 Accommodation Within the Work Unit

6.4.1 If the employee is able to be accommodated in his/her current position/assignment a meeting will be scheduled by the HRS Officer, and will include the employee, supervisor, union representative (if applicable), and the LTD provider. The Return to Work Plan will be discussed and signed off by all parties present at the meeting.

6.5 Accommodation Outside of the Work Unit

6.5.1 If the employee is unable to be accommodated in his/her current position/assignment, even with significant modifications, the HRS Officer will discuss alternate available positions with the supervisor, other workplace parties, the union (if applicable) and the LTD provider.

6.5.2 If an alternate position/assignment is available the HRS Officer will make a written job offer to the employee. If the employee accepts this offer, a meeting will be scheduled by the HRS Officer, and will include the employee, supervisor, union representative (if applicable) and the LTD provider. The Return to Work Plan will be discussed and signed off by all parties present at the meeting.

6.6 If no alternate position/assignment is available, the HRS Officer will advise the employee, the union and the LTD provider. The LTD provider will determine the employee's eligibility for continuing LTD benefits. Should the LTD provider deem that the employee is no longer eligible for LTD benefits, the HRS Officer will notify the employee that he/she will be on an unpaid medical leave, and that he/she will need to provide appropriate medical documentation to maintain his/her employment status with the board. The HRS Officer will continue to work



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with other workplace parties to determine if any appropriate positions/assignments become available.

6.7 The employee will notify the LTD provider's Rehabilitation Coordinator/Case Manager if there is any change to his/her medical condition, or if he/she is experiencing any difficulties with the assigned duties which are indicated on the Return to Work Plan. The LTD provider will notify the HRS Officer, and if required, the HRS Officer will schedule a follow-up meeting with the employee, supervisor, union representative (if applicable) and the LTD provider.

7. **Employees Returning from an Approved Workplace Safety and Insurance Board Claim**

7.1 Procedures for employees returning from an approved WSIB claim are outlined in APM 4007, Workplace Safety and Insurance Board Claims.

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