



Administrative Procedure 5113

Reasonable Accommodation

Board Governance Policy Cross Reference: [1](#), [11](#), [12](#), [13](#)

Administrative Procedures Cross Reference:

[Leaves and Absences – Professional Staff](#)

[Leaves and Absences – Permanent Support Staff](#)

Form Cross Reference:

[Reasonable Accommodation Request Form](#)

Legal/Regulatory Reference:

[BTA Collective Agreement](#)

[CUPE Collective Agreement](#)

[Freedom of Information and Protection of Privacy Act](#)

[The Human Rights Code of Manitoba](#)

[The Personal Health Information Act](#)

[The Workers Compensation Act](#)

Date Adopted: September 2019

Amended:

The Brandon School Division has an obligation under The Human Rights Code of Manitoba (“the Code”) to reasonably accommodate the special needs of employees that are based on protected characteristics, to the point of undue hardship. Protected characteristics under the Code include: ancestry; nationality; ethnic origin; religion; age; sex, including pregnancy and gender identity; gender-determined characteristics; sexual orientation; marital or family status; source of income; political belief; physical or mental disability and social disadvantage.

This administrative procedure is not intended to discourage or prevent an individual from exercising their legal rights pursuant to any other law. Where provisions with respect to the duty to accommodate exist within a collective agreement, the collective agreement provisions shall apply.

Reasonable Accommodation Responsibility

Where reasonable accommodation of a special need based on a protected characteristic under the Code is requested/identified, it is the responsibility of the division, the employee, the union (if applicable), co-workers and insurance plan representative (if applicable) to participate in the reasonable accommodation efforts. However, the division has the primary responsibility for ensuring an appropriate accommodation given the division has control of the workplace and can allocate resources and implement options.

The accommodation process is a tri-partite arrangement between the employer, employee and union (if applicable). The employer is obligated to find an appropriate accommodation to the point of undue hardship. The employee is obligated to participate by providing the appropriate documentation and participating in work trials and placements. The union is obligated to facilitate the accommodation by not impeding reasonable efforts of the division. The accommodation process supersedes provisions of a collective agreement such as staffing provisions that may impede a reasonable accommodation.

Division Responsibility:

- Use the appropriate medium to communicate the Reasonable Accommodation Administrative Procedure and applicable form(s);
- Through its Office of Human Resources, review the employee's request for Accommodation and determine if it falls under the Code;
- If the division has reason to question a significant change in an employee's behavior or performance, pursue relevant inquiry (by speaking to the employee or other) to determine if there is a disability issue at the heart of the conduct that requires exploration under the Code;
- Verify the need for accommodation through employee interview, additional communication with medical and/or other relevant professionals and review of documentation submitted;
- Assess, identify, individualize and implement reasonable accommodation in a timely manner; and
- Maintain confidentiality to the greatest extent possible.

The division's Office of Human Resources will co-ordinate, track accommodation requests/outcomes and provide advice and guidance to the Supervisor/School Leader regarding accommodation and the return-to-work process. In addition, the Supervisor/School Leader will collaborate with the Office to determine effectiveness, need for change and/or determine if accommodation is no longer necessary.

If accommodation is not possible due to undue hardship, the division will advise the Employee, normally in writing, as to the reason(s) the accommodation cannot be provided.

(Note: In the event that a reasonable accommodation request is denied by the division, employees may elect to contact the Human Rights Commission or any other appropriate legal authority at any time before, during or after the division's involvement in the process.)

Employee Responsibility:

- Advise the division of the request for accommodation by completing the Reasonable Accommodation Request Form and submit it to the Office of Human Resources in a timely manner;
- Provide all relevant medical and/or other information to assist the division in assessing the request;
- Provide the division with the necessary authorization to communicate with relevant professionals, medical or other, depending on the request; and
- Co-operate in the search for, and implementation of, the accommodation.

Union Responsibility:

- The union may represent the employee's interests during the rehabilitation placement process, as needed. They are involved at the employee's request or in accordance with the collective agreement.

Co-Worker:

- 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; i.e. accommodation is not "special treatment"; rather it 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 co-workers.

INSURANCE PLAN REPRESENTATIVE (Long-Term Disability/Worker's Compensation Board):

- May make the initial referral to the division to advise of readiness to return to work and provide information clearly outlining medical restriction(s);
- May assist in the clarification of the restrictions by consulting with health care provider(s); and

Works with the division and employee to develop and monitor a return to work plan, based on medical opinion, ensuring a safe and successful return to work