



## ADMINISTRATIVE PROCEDURES

**SUBJECT:** Disability Support Program

### RATIONALE

The Lambton Kent District School Board (the “Board”) expects regular and consistent work attendance by all employees. This is integral to the delivery of quality educational programs and to the operations of the Board. Regular attendance supports a positive learning environment for students, promotes effective Board operations, and encourages public trust in the Board.

At the same time, the Board recognizes that there will always be some level of absenteeism and it is committed to supporting the health of employees. This Disability Support Program Administrative Procedure (the “Procedure”) outlines the procedures for the use of sick leave and short-term leave disability program (“STLDP”) benefits, including the process for reporting Absences.

### PURPOSE

The purpose of the Procedure is to:

- (a) establish a fair and consistent procedure for addressing Absences due to illness, injury, or Disability;
- (b) establish individualized Return-to-Work Plans when appropriate, by allowing employees to perform their Essential Duties through Accommodations, pursuant to their medical restrictions and limitations, as supported by appropriate medical documentation, without causing Undue Hardship to the Board;
- (c) facilitate the return of employees to their original position and work location where possible; and
- (d) supplement the Board’s other policies and procedures with respect to employee attendance.

### DEFINITIONS

- (a) **Absence:** Failure of an employee to show up, on time, and fit for work, for all or part of their regularly scheduled shift due to personal illness, injury, or Disability.
- (b) **Accommodation:** Reasonable change or adjustment to an employee’s work or workplace, or both, to enable the employee to safely and productively perform the Essential Duties of their existing position.

- (c) **Essential Duties:** The duties necessary to produce the actual job outcome. The job outcome is the production or provision of the final product or service required. The overall objective of the position constitutes job outcome in determining essential duties of a position.
- (d) **Disability:** Disability, as defined in the Ontario *Human Rights Code* is:
- (i) 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, and any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or physical reliance on a guide dog, or on a wheelchair or other remedial appliance or device;
  - (ii) a condition of mental impairment or developmental disability;
  - (iii) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
  - (iv) a mental disorder; or
  - (v) an injury or disability for which benefits were claimed or received under the Ontario *Workplace Safety and Insurance Act*.
- (e) **Return-to-Work Plan:** A plan to determine and provide for appropriate Accommodations for a person with a Disability that is developed in conjunction with that person, their Immediate Supervisor or Principal, their Union or Federation (if applicable), and the Board's Human Resources Department, taking the person's specific needs into consideration. A Return-to-Work Plan is a living document and is reviewed and updated periodically or as new information becomes available, and may be permanent or temporary. A Return-to-Work Plan may include, among other things, the employee's:
- (i) medically supported restrictions and limitations, as identified by a duly qualified medical practitioner;
  - (ii) duties to be performed or excluded;
  - (iii) expected date of starting and completing the Plan;
  - (iv) next medical review date; and
  - (v) next review meeting with the Human Resources Department, their Immediate Supervisor or Principal, or their Union or Federation (if applicable).
- (f) **Undue Hardship:** The threshold at which the ability of the Board to provide an employee with reasonable Accommodation is outweighed by the financial and institutional costs, the impact on other employees, the health and safety impact of providing such Accommodation, or other relevant factors.

## RESPONSIBILITIES

### The Board is responsible for:

- (a) maintaining and implementing the Procedure;
- (b) reviewing the Procedure on a regular basis or as required by legislative change; and
- (c) educating employees on the Procedure.

**The Human Resources Department is responsible for:**

- (a) administering the Procedure;
- (b) ensuring confidentiality under the Procedure;
- (c) requesting, receiving, and assessing reasonable proof of initial and ongoing illness, injury, or Disability, where applicable, for the purposes of the Procedure;
- (d) developing and reviewing Accommodations, Return-to-Work Plans, and long-term disability (“LTD”) or WSIB processes, based on an employee’s restrictions and limitations;
- (e) communicating in writing any reasons for decisions made with respect an employee’s requests under the Procedure; and
- (f) managing WSIB and LTD claims.

**Principals and Supervisors are responsible for:**

- (a) ensuring employees are aware of the Procedure;
- (b) maintaining accurate records of attendance;
- (c) ensuring confidentiality under the Procedure;
- (d) identifying and referring employees who may require support to the Procedure and the Human Resources Department;
- (e) cooperating with the Human Resources Department as required; and
- (f) considering Accommodations when assessing work performance.

**Employees are responsible for:**

- (a) reporting Absences;
- (b) submitting medical documentation to substantiate Absences, as required and in a timely manner;
- (c) maintaining contact with the Human Resources Department, and Principals or Supervisors as appropriate, throughout periods of Absence;
- (d) cooperating with all relevant parties in developing and implementing Return-to-Work Plans and in processing WSIB or LTD claims, where applicable; and
- (e) acting respectfully towards employees utilizing the Procedure.

**Unions and Federations are responsible for:**

- (a) encouraging their members to comply with the Procedure;
- (b) sharing responsibility with the Board to facilitate the Procedure, where applicable; and
- (c) cooperating with the investigation into possible Accommodations with members, the Board, Principals, Supervisors, and the Human Resources Department.

**PROCEDURES****A. Reporting Absences**

Employees must follow the procedures set out below for reporting Absences.

**(a) 5 or fewer consecutive Absences**

1. Employees are required to advise their Immediate Supervisor or Principal immediately when a personal illness, injury or Disability prevents them from working.
2. The Board may ask an employee to provide medical documentation to substantiate an Absence should the Board believe the circumstances warrant it.
3. All medical notes received by school administration will be immediately forwarded to the Human Resources Department.

**(b) More than 5 consecutive Absences**

1. If the Absence is, or is expected to be, five consecutive working days or more, documentation from the duly qualified medical practitioner may be requested by, and submitted to, the Principal/Vice-Principal or Immediate Supervisor. Nothing in the foregoing shall prohibit the Board from requiring an employee to submit such documentation following any period of absence should the Board believe the circumstances warrant it.
2. All medical notes received by school administration will be immediately forwarded to the Human Resources Department.
3. The documentation required shall minimally consist of the following:
  - (i) medical restrictions and/or limitations that are preventing the employee from working and which may require accommodation upon return to work, if any; and
  - (ii) expected date of recovery and/or return to work date.

**(c) Medical Confirmation**

1. The Board may require medical confirmation of illness or injury to substantiate access to sick leave or STLDP benefits. Medical confirmation may be required to be provided by the employee to access sick leave or STLDP benefits.
2. The Board may require information to assess whether an employee is able to return to work and perform the Essential Duties of their position. Where this is required, such information shall include their limitations, restrictions, and Disability-related needs to assess workplace Accommodation as necessary (omitting a diagnosis).
3. Information will be collected in a form mutually developed and agreed upon between the employee, the Board, and the employee's Union or Federation (if applicable), in accordance with any applicable collective agreement or employment contract.
4. At no time shall the Board or any of its agents contact the employee's medical practitioner directly without advance consent from the employee.
5. The Board shall be responsible for any costs related to independent third party medical assessments required by the Board.

**B. Disability Management****(a) Non-Occupational Injury Return to Work Process**

Where an employee seeks to access STLDP benefits due to an ongoing injury, illness, or Disability, the above procedures shall continue to apply as applicable, in addition to the following Disability Management procedures.

In such cases, pursuant to any applicable collective agreement, employment agreement and/or terms and conditions of employment, the Human Resources Department will undertake to case manage an employee's access to STLDP benefits, and may, among other things:

1. Contact the employee directly to outline the Procedure and the employee's responsibilities when on an extended period of Absence, including obligations with respect to Accommodations, LTD providers, or the WSIB.
2. Maintain regular contact with the employee about their Accommodations or Return-to-Work Plan (if applicable).

3. Assess the employee's work capabilities and restrictions and limitations based on appropriate medical documentation and in cooperation with the employee, the employee's Immediate Supervisor or Principal, and the employee's Union or Federation (if applicable).
4. Investigate possible Accommodation solutions with the employee, the employee's Immediate Supervisor or Principal, and the employee's Union or Federation (if applicable).
5. Where applicable, develop and facilitate a Return-to-Work Plan for the employee, which may include, among other things:
  - (i) discussing the employee's functional limitations with their Immediate Supervisor or Principal to begin designing suitable Accommodations and a Return-to-Work Plan;
  - (ii) performing a workplace assessment with the employee's Immediate Supervisor or Principal to ensure compatibility between the employee's limitations, Essential Duties, and potential Accommodations;
  - (iii) arranging meetings between the employee, their Immediate Supervisor or Principal, and their Union or Federation (if applicable), as necessary, to facilitate Accommodations;
  - (iv) providing a copy of the Return-To-Work Plan to the employee, their Immediate Supervisor or Principal, and their Union or Federation (if applicable), each of whom may be required to review and sign the plan to indicate their agreement with its terms; and
  - (v) liaising between the employee, their Immediate Supervisor or Principal, and their Union or Federation (if applicable) on progress and estimated times when the employee will be able to work and with what Accommodations (if any).

**(b) Occupational Injury Return to Work Process**

Where an employee is on an Absence, and where that employee has sought medical attention by a medical practitioner or lost work time after the date of the injury, WSIB may become involved. In such cases, the procedures of the WSIB shall be followed in accordance with governing legislation. Entitlement to sick leave or STLDP benefits in addition to WSIB or LTD benefits will be determined by applicable collective agreement, employment agreement and/or terms and conditions of employment.

Implementation Date: May 4, 2010  
Revised: August 26, 2019

Reference: LKDSB Policy, Regulations and Administrative Procedure *Attendance Support Program*