

DUTY TO ACCOMMODATE A SUMMARY FOR TEACHERS

WHAT IS ACCOMMODATION?

The Saskatchewan Human Rights Code, 2018, prevents employers from discriminating on the basis of disability. This creates an obligation on the school division to accommodate throughout the employment relationship. Accommodation obligations apply to all teaching contracts, including temporary contracts, replacement contracts and substitute teachers.

Accommodation can be initiated by either the employer or the employee. The employer has a duty to inquire if there are indications accommodation might be required.

It is the duty of the school division to provide an appropriate accommodation and it is the duty of the teacher to cooperate in the accommodation process.

TALKING TO YOUR MEDICAL PRACTITIONER

- Before going to your medical practitioner, review the list of restrictions and the list of typical teacher activities so that you can share the information that is relevant to you and your job.
- You can let your medical practitioner know that you require a written report to show medical restrictions for workplace accommodation purposes and that you want the report to cover your medical restrictions, not symptoms or diagnosis.
- The medical practitioner can use the form provided by the school division or can use their own format.
- Let your medical practitioner know about any timelines and ask whether your medical practitioner will need any extra time to complete the report (if so, let the school division know).
- If you are seeing a specialist, ask your medical practitioner if it would be more appropriate to have your specialist complete the report.

WHAT ABOUT CONFIDENTIALITY?

Medical information and any other personal information shared by the teacher with the school division must be kept in confidence by the school division. Information will be shared **only** with the people who need to know. Information that is essential for the implementation of accommodation plans may be shared with the principal or other staff who need to know.

Confidentiality applies to both medical information and personal information shared by the teacher. In some cases, teachers may wish to share background information, history or other personal information to help give a clearer picture of the situation. However, there is no legal obligation to share personal information other than medical restrictions.

The Local Authority Freedom of Information and Protection of Privacy Act applies to all information collected by the school division.

OBTAINING MEDICAL INFORMATION

What kind of medical information will be required?

You will be required to provide a report from your medical practitioner giving details of your medical restrictions.

Restrictions are the limitations of skills and abilities resulting from disability that prevent you from carrying out some aspects of your work.

The employer's efforts to accommodate you are based on those specific restrictions identified by your medical practitioner.

Your medical practitioner will need to confirm in writing the nature and extent of your restrictions along with the expected duration of each, unless the duration is unknown.

To help identify the limitations to your work skills, consider your role as a teacher and the tasks which you believe will be challenging for you. Now, consider the functions necessary to carry out those tasks (i.e., concentration is required for planning and assessment, being able to prioritize tasks and organize activities are required for instruction and classroom management, mobility may be required for responding to student needs, etc.).

- A list of Some Typical Restrictions/Limitations is located on page 6.
- A list of Some Typical Teacher Activities is located on page 7.

You have the right to have changes made to the employment environment in order to have full access to the work environment.

What is the difference between my symptoms and my restrictions?

Restrictions and symptoms are different concepts.

- **Symptoms** are physical or mental features apparent to you and your medical practitioner regarded as indicating a disability.
- **Restrictions** describe the impact of a symptom on a function of your ability to do your job.

For example, fatigue and pain are both symptoms an employee is experiencing. The restrictions associated with those symptoms may be reduced concentration or maintaining stamina. **It is critical your medical practitioner describes the restrictions, not the symptoms, you are experiencing.**

You may want to work with your medical practitioner to answer the question, "Is what is being described a reflection of how I feel or a reflection of what I need to do in the workplace?"

- If it answers the question, "How and what am I feeling?", then it is a symptom.
- If it describes how it impacts your capacity to function at work, then it is likely to be a restriction.

Put another way, symptoms describe the illness or the disability; restrictions describe the implications for work.

What if my medical practitioner makes recommendations?

Restrictions and recommendations are different concepts. The employer has a legal obligation to make modifications in the workplace based on the medically identified restrictions, not recommendations.

While your medical practitioner might have ideas or recommendations about those workplace modifications, your medical practitioner's recommendations are only that, possible ideas for consideration. They are not binding on the employer. If your medical practitioner provides a list of recommendations without restrictions, you may be asked to return to your medical practitioner to have the restrictions identified.

What if I am seeing multiple medical practitioners?

It is not unusual for a teacher to receive treatment from multiple medical practitioners. Let the school division know if this is the case. The school division may suggest a specific practitioner provide a report. You and your doctor should discuss which medical practitioner is the most appropriate depending on the medical information required.

If the school division has not specified which medical practitioner, then provide a report from the medical practitioner you think is best able to provide the required information.

Information from a nurse practitioner will be acceptable if the information provided is within the professional responsibilities of the nurse practitioner.

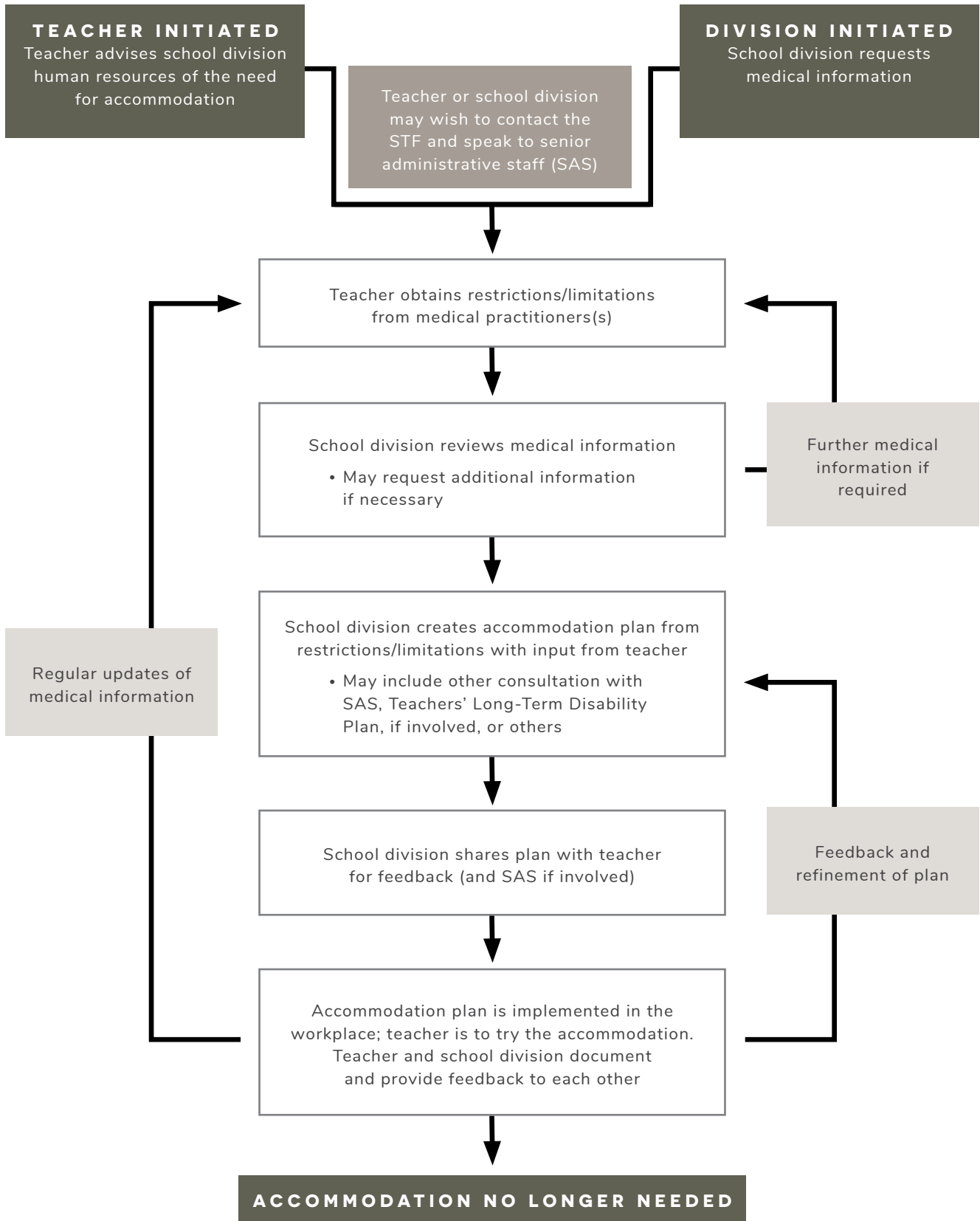
When appropriate, the school division may also accept information from other health professionals such as dentists, chiropractors, optometrists, psychologists, occupational therapists, physical therapists, nurses or any other person who is registered or licensed pursuant to any Act to practice in Saskatchewan. They must only give medical information which falls within their area of practice.

What does the school division do once they know the medical restrictions?

The school division must identify appropriate duties that address your medical restrictions. They will consult with you and review the information provided by your medical practitioner. The school division will try to put in place measures to enable you to continue with the duties of your job. In some cases, the duties will need to be modified and equipment or programs may need to be purchased. In other cases, the length of the day or week might have to be modified. Each accommodation will be unique to each situation.

The school division must accommodate you to the point of undue hardship. Undue hardship exists when the steps required to accommodate the employee are so extreme, onerous or difficult that it is clear it is unreasonable to expect the employer to implement them.

TYPICAL ACCOMMODATION PROCESS



ROLES AND RESPONSIBILITIES

The teacher, medical practitioner, Federation staff and school division share in the responsibility of managing a successful accommodation. Below are summaries of the main roles and responsibilities each party has in the process.

Teacher

- May initiate an accommodation process by informing the school division.
- Has a duty to cooperate in the process with all concerned parties in a timely fashion.
- Is required to:
 - Provide the appropriate initial medical information about restrictions.
 - Comply with reasonable requests for additional medical information.
 - Demonstrate there is a disability verified by a medical practitioner (not required to disclose diagnosis).
 - Provide regular medical information as reasonably requested throughout the accommodation process.
 - Try a reasonable accommodation, even on a temporary basis, unless there is a legitimate safety concern (i.e., risk of re-injury or exacerbating the condition).
 - Maintain regular, ongoing communication with the school division regarding how the accommodation is working.
 - Participate in finding an appropriate workplace accommodation.

Medical Practitioner

- Is required to provide medical restrictions/limitations.
- It is vital the medical report clearly set out the medical restrictions requiring accommodation. If the medical information is not clear, relevant or sufficient, the school division will ask for further medical information.

Senior Administrative Staff

- Work with individual teachers to support them through the accommodation process.
- Work with the teacher to propose alternatives as part of the search for an accommodation.
- Provide educational supports and information to members of the profession in the accommodation process.

School Division

- Has the obligation to investigate and/or initiate accommodation where evidence suggests there is a medical condition that may require the need for an accommodation.
- Is required to make every reasonable effort, short of undue hardship, to accommodate a teacher who comes under a protected ground of discrimination under *The Saskatchewan Human Rights Code, 2018*.
- Has the right and authority to propose the accommodation and determine the teaching assignment.
- The accommodation must be both reasonable and consistent with the teacher's identified medical restrictions.
- After reviewing the medical information, the school division will look at possible options for accommodation. All parties are encouraged to make suggestions for possible accommodations, but it is the responsibility of the school division to create an appropriate written accommodation plan.
- Must consult with the teacher and consider the teacher's preferences but is not required to grant such preferences.
- Implement and monitor the accommodation including medical followup as necessary.

Teachers' Long-Term Disability Plan

- Teachers may be eligible for benefits (contact senior administrative staff at the Federation for further information).
- LTD staff may cooperate with the school division in providing information and proposing appropriate accommodation measures. It remains the school division's duty to determine the appropriate accommodation plan.

SOME TYPICAL RESTRICTIONS/LIMITATIONS

Definition

Restrictions are the limitations of skills and abilities due to a disability that are preventing the person from performing essential duties of their job. Restrictions can be broadly characterized as physical or mental in nature. An individual may have restrictions in one or both categories.

Examples of Possible Restrictions (not an exhaustive list)

MOTOR OR MOBILITY RESTRICTION

Limited ability to:

- Stand in front of class
- Write on whiteboard/SMART Board
- Bend to assist students
- Bend to access materials or files
- Lift more than recommended by medical practitioner
- Sit for long periods of time at a table or desk
- Move around room, school or grounds
- Write on papers
- Work at a keyboard

SENSORY RESTRICTION – VISION

Difficulty to view:

- Information on computer screen or other devices
- Papers

SENSORY RESTRICTION – HEARING/SPEAKING

Difficulty to:

- Communicate with others due to hearing loss or no hearing
- Access information from devices
- Speak in voice appropriate for others
- Communicate using telephone, Internet, etc.
- Respond to fire and emergency signals

MENTAL HEALTH RESTRICTION

Difficulty to:

- Maintain stamina
- Concentrate
- Retain memory
- Organize, stay on task or manage time
- Handle stress, emotions or change
- Interact with co-workers

ALLERGIES OR MULTIPLE CHEMICAL SENSITIVITIES

Restriction

- Allergies/chemical sensitivities to products used in school (i.e., chalk, markers, glue, perfume, etc.)
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Referenced from United States Department of Labor's Office of Disability Employment Policy. Job Accommodation Network (JAN). Accommodating Educators with Disabilities. Morgantown WV.

SOME TYPICAL TEACHER ACTIVITIES

The following list can be used by teachers and school divisions to help identify activities that will be affected by a teacher's disability and that should be considered in an accommodation plan. (There may, of course, be other activities performed by individual teachers, such as voluntary activities and not all teachers will perform all activities listed.)

Plan Lessons

- Create written daily plans for all classes taught
- Create written weekly plan
- Change and adapt plans at last minute
- Find and organize resources needed for plans (books, videos, speakers, activities, materials, etc.)

Deliver Lesson Plans

- Instruct and demonstrate lessons
 - Use electronic devices
 - Use whiteboard/SMART Board
 - Use books and printed materials
 - Use keyboards
 - Lift equipment
 - View computer screen
 - View projected images
 - Bend or sit to work with students or use equipment
 - Verbal communications at classroom level
- Monitor student learning activity in classroom – verbal, visual and written
- One-on-one discussion and individual instruction with students

Classroom Management

- Complete daily attendance reports
- Complete other administrative reports required
- Create routines and set procedures for the classroom
 - Maintain routines and procedures
- Follow and model adherence to school schedule
- Administer direction/discipline to students
- Supervise students in classroom and hallways
 - Stand and move around the classroom and school
 - Sit for period of time
 - Climb stairs
- Supervise students outdoors
- Travel with students on field trips
- Respond to fire and other emergency alarms

Assess and Evaluate Students

- Create written evaluation plans
- Review agendas of students
- Provide verbal feedback to students on daily basis
- Provide written feedback to students on assignments and exams
- Calculate marks in accordance with evaluation plans
- Record marks in accordance with school policy and Ministry directives including creating formal progress reports for individual students

Communicate Effectively With Parents and Colleagues

Methods of Communication

- Use phone (verbal)
- Use email and text (written)
- In-person meetings

Types of Communications

- In-person discussions with classroom educational assistant
- Discussions with consultants
 - Provide information and complete reports
 - Receive written and verbal information
- Discussions with caregivers
- Staff meetings
- Professional collaborations with parties outside the school
- Make professional presentations to groups

Professional Activities

- Attend professional development events at:
 - School level
 - School division level
 - Provincial level
- Participate in collaborative work projects within and outside the school division
- Research to remain current on professional issues relating to curriculum, methodologies, etc.

Co-Curricular Activities (Voluntary)

- Coaching sports
- Working with school clubs

