



Return-to-Work & Medical or Disability Related Accommodation Procedures

Sir Sandford Fleming College is committed to building an inclusive and accessible learning and working environment. We believe in and promote the rights of all persons with disabilities as enshrined in the **Canadian Charter of Rights and Freedoms**, the **Ontario Human Rights Code**, and the **Accessibility for Ontarians with Disabilities Act (AODA 2005)** and its related **Accessibility Standards Regulations**. To meet this commitment, Fleming College will make appropriate accommodations available throughout the recruitment, selection and/or assessment process to applicants with disabilities. If selected to participate in the recruitment, selection and/or assessment process, please inform our Human Resources staff of the nature of any accommodation(s) that you may require to ensure your equal participation. To obtain a copy of this document in another format please contact hr@flemingcollege.ca.

Revisions: 22 Oct 2018

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1. Confidentiality Statement

- The College is committed to protecting the confidentiality of employees' medical and personal information.
- The RTW/Medical Accommodation (RTW/MA) Program Committee and RTW/MA Team(s) shall protect the confidentiality of employee medical and personal information.
- All employees are made aware of when and how information is shared throughout the program, including their rights and responsibilities regarding confidentiality.
- To ensure timely return to work/medical accommodation planning, the College requires information about an employee's abilities and limitations, which is collected from the relevant treating health care provider or through a 3rd party (insurer or WSIB). The RTW/MA Program Specialists in HR are responsible for ensuring that processes are in place to provide the safekeeping and protection of confidential information.
- Records of personal medical information are kept confidential and separate from employee human resources records.
- Employee health information is gathered through a process of informed written consent from the employee with a description of the use, storage and distribution of the information.
- The RTW/MA Program Specialists ensure the College is in compliance with federal and provincial privacy laws.

2. Notification & Reporting Responsibilities

Absences – Employees are required to contact their supervisor to report an absence due to illness or injury, in accordance with the College "Absence Due to Illness/Injury Procedure".

Requests for Medical or Disability-related Accommodation – Employees are required to contact their supervisor to make requests for medical or Disability-related accommodation. Appropriate medical documentation from a health care provider must be provided to support the accommodation requirements and assist with identification of suitable accommodations.

Requests for Ergonomic Supports - Routine and preventative ergonomic accommodation requests, where medical evidence is not involved, are outside the scope of this procedure. These non-medical requests should be addressed by the Manager in consultation with the Director, College Facilities.

Employee Information Package – Human Resources will forward an information package to the employee when their sick leave absence has exceeded five (5) consecutive working days. The information package may also be sent to employees in cases of accommodation requests (without absence) where additional medical information is required. The information package will contain a covering memo, the 'Absence Due to Illness/Injury Procedure', information on the employee's sick pay entitlement, a blank copy of the 'Health Care Provider's Assessment' form, and an information pamphlet on RTW / MA.

3. Assessment / Planning / Implementation

3.1 - Return to Work Following Absences Due to Illness/Injury/ Disability

3.1.1 - ASSESSMENT PHASE:

- The Supervisor contacts the employee as soon as possible (determined by nature of illness/injury/ disability and how appropriate it would be to contact the employee) to assess possible accommodation and return to work needs and to determine when the employee expects to return to work.
- If the Supervisor, in consultation with the employee, determines:
 - that a return to work is not imminent, or

- that an accommodation plan is necessary, to facilitate the employee's return to work,
- Then, the Supervisor contacts the HR Consultant.
- The HR Consultant:
 - Notifies the Union representative to ensure they are aware of the circumstances and to arrange a RTW Team meeting, if accommodations are required.
 - Liaises with the Benefits Administrator to send out the employee information package (see Section 2 - Notification & Reporting Responsibilities)
- The Supervisor maintains regular (e.g. weekly) and considerate contact with the employee during the medical absence.
- The employee's abilities and restrictions information is collected through the use of the "Health Care Provider's Assessment of Work Abilities and Limitations" Form which the employee takes to his/her health care provider, or it is faxed (along with instructions) to the health care provider directly, with the employee's consent.
- The HR Consultant initially reviews the information on the "Health Care Provider's Assessment of Work Abilities and Limitations" form to identify timing, a possible accommodation strategy and whether the return to work (if the employee has been absent) will be simple or complex (see Definitions).
- If the information provided on the "Health Care Provider's Assessment of Work Abilities and Limitations" form regarding the employee's prognosis and/or restrictions is not sufficient for the College to reasonably understand the employee's condition, accommodation requirements and/or the employee's fitness to return to the workplace, the HR Consultant will notify the employee and the Union; the HR Consultant will then provide the employee with a follow up letter with specific questions for employee's health care provider to respond to.
- If the employee cannot return in any capacity due to total disability, the HR Consultant informs the Benefits Administrator and ensures appropriate updates on functional abilities information is received from the health care provider (via the employee) to monitor for potential accommodation opportunities.
- The Supervisor maintains regular and considerate contact with the employee and keeps the HR Consultant informed of developments.
- The HR Consultant keeps the RTW/MA Program Specialists and the Benefits Administrator informed.

3.1.2 - PLANNING PHASE:

- For **simple** return to work situations (no workplace accommodation required), the Supervisor will document the employee's return in an email or memo to the HR Consultant. The HR Consultant forwards the documentation to the RTW/MA Program Specialists and the Benefits Administrator for recordkeeping.
- For **complex** return to work situations (modification to duties and/or hours is required), the HR Consultant arranges a meeting of the RTW/MA Team:
 - The RTW/MA Team consists of the employee, the supervisor, the Union or association representative, as applicable and the HR Consultant.
 - The RTW/MA Team may consult with the RTW/MA Program Specialists or other resource persons, as necessary.
 - The purpose of the RTW/MA meeting is for the parties to reach agreement on the RTW/MA Action Plan.
 - Accommodations to work hours for academic employees should be recorded as a percentage (%) of a full workload vs. a number of hours per day or per week
 - The HR Consultant documents the RTW/MA Action Plan and circulates the Plan for all parties to sign. The original signed document is maintained in the employee's confidential health file within Human Resources.

- For academic employees, no final SWF/contract shall be issued before an RTW/MA meeting has taken place. **The employee is not to report for work until the RTW meeting has occurred.**
- The RTW/MA Action Plan outlines:
 - The action steps that will be taken to assist the employee to return to regular work and regular hours as soon as possible, while supporting recovery or accommodating identified disabilities
 - The information required to implement the action steps
 - The services and/or resources that will be provided to the employee to accommodate identified disabilities, assist with recovery and return to work
 - Responsibilities and target dates assigned to each step
 - The return to work schedule or plan
 - Communication needs and issues (e.g., co-worker communication)
 - The expected return to work date
 - The date of follow-up meeting for RTW/MA Team to review RTW/MA status
 - Identification of appropriate accessible formats and communication supports and arrangements
 - Identification of appropriate workplace emergency response information if required.
- The employee may share the plan with the health care provider to ensure there are no medical concerns.
- For LTD and WSIB cases, the RTW/MA Team includes the insurer or WSIB, as appropriate.
- The HR Consultant ensures a copy of the signed RTW/MA Action Plan is sent to the RTW/MA Program Specialists and the signed original is given to the Benefits Administrator

3.1.3 - IMPLEMENTATION PHASE:

- For **simple** RTW/MA Action Plans, the Supervisor maintains regular contact with the employee to ensure the Plan was implemented as expected.
- The HR Consultant follows up with the supervisor and the employee within two weeks of the return-to-work date to ensure there are no new issues or concerns.
- For **complex** RTW/MA Action Plans, the HR Consultant includes a follow-up schedule which identifies when the next RTW/MA Team meeting is scheduled.

3.2 - Requests for Medical Accommodation without Absence Due to Illness/Injury/Disability

3.2.1 - ASSESSMENT PHASE:

- The Employee contacts the Supervisor as soon as possible to request medical accommodation and provides written documentation from the health care provider to support the accommodation requirements.
- The Supervisor contacts the HR Consultant and forwards the medical documentation to HR
- The HR Consultant notifies the Union representative to ensure they are aware of the circumstances and to arrange a RTW/MA Team meeting
- The HR Consultant reviews the information on the initial medical documentation to identify possible accommodation strategies and whether or not further clarification of the medical restrictions is necessary in order for the College to understand the accommodation needs.
- If the information provided on the initial medical documentation is not sufficient for the College to reasonably understand the employee's accommodation requirements, the HR Consultant will notify

the employee and the Union; the HR Consultant will then provide the employee with a follow up letter with specific questions for employee's health care provider to respond to.

- The College, the Union or the employee may request a preliminary RTW/MA Team meeting, if necessary, while awaiting further medical documentation.
- The HR Consultant keeps the RTW/MA Program Specialists and the Benefits Administrator informed of the assessment phase status.

3.2.2 - PLANNING PHASE:

- The HR Consultant arranges a meeting of the RTW/MA Team:
 - The RTW/MA Team consists of the employee, the supervisor, the Union or association representative, as applicable and the HR Consultant.
 - The RTW/MA Team may consult with the RTW/MA Program Specialists or other resource persons, as necessary.
 - The purpose of the RTW/MA meeting is for the parties to reach agreement on the RTW/MA Action Plan.
 - Accommodations to work hours for academic employees should be recorded as a percentage (%) of a full workload vs. a number of hours per day or per week
- For academic employees, no final SWF/contract shall be issued before an RTW/MA meeting has taken place.
- The HR Consultant documents the RTW/MA Action Plan and circulates the Plan for all parties to sign. The original signed document is maintained in the employee's confidential health file within Human Resources.
- The RTW/MA Action Plan outlines:
 - The accommodations to hours and/or job duties needed for the employee to perform their job
 - The action steps that will be taken to assist the employee to perform the duties of their job with appropriate accommodations
 - The information required to implement the action steps
 - The services and/or resources that will be provided to the employee to assist with the implementation of accommodations
 - Responsibilities and target dates assigned to each step
 - The accommodation schedule or plan
 - Communication needs and issues (e.g., co-worker communication)
 - The date of follow-up meeting for RTW/MA Team to review RTW/MA status
 - Identification of appropriate accessible formats and communication supports and arrangements
 - Identification of appropriate workplace emergency response information if required.
- The employee may share the plan with the health care provider to ensure there are no medical concerns.
- For WSIB cases, the RTW/MA Team includes a WSIB representative.
- The HR Consultant ensures a copy of the signed RTW/MA Action Plan is sent to the RTW/MA Program Specialists and the signed original is given to the Benefits Administrator

3.2.3 – IMPLEMENTATION PHASE:

- The Supervisor maintains regular contact with the employee to ensure the Plan was implemented as expected.
- The HR Consultant follows up with the supervisor and the employee within two weeks of the accommodation implementation date to ensure there are no new issues or concerns.
- The HR Consultant includes a follow-up schedule which identifies when the next RTW/MA Team meeting is scheduled, if applicable.

4. **Post-Implementation Follow Up** (For All Cases)

- The HR Consultant follows up with the employee, supervisor and Union representative once a month for two months to ensure the plan implementation is progressing as expected.
- The HR Consultant re-convenes the RTW/MA Team as noted in the Plan or sooner, if required.
- The RTW/MA team must be re-convened before a new or revised SWF/contract is issued (academic employees).
- If the Plan exceeds two months, the HR Consultant must re-convene the RTW/MA Team to re-assess circumstances and progress.
- All follow-ups are documented by the HR Consultant and shared with the RTW/MA Team, the RTW/MA Program Specialists and the Benefits Administrator.
- A short 'Quality Assurance' form will be distributed by the HR Consultant to all members of the RTW/MA team at the last RTW/MA meeting. Completed forms are to be submitted to the Benefits Administrator in a timely manner for review and record-keeping.

5. **Dispute Resolution** (For All Cases)

Definition: Disputed Return to Work/Medical Accommodation (RTW/MA):

A situation whereby the workplace parties cannot reach agreement on the RTW/MA plan. The dispute may be the result of a disagreement regarding the employee's functional abilities, the demands of the job, the appropriateness of the accommodation and/or the RTW/MA process itself.

Clarifying points:

- If a dispute arises re the plan implementation, the next step prior to initiating the dispute resolution process, is for the HR Consultant to convene a Medical Accommodation Action Plan (MAAP) meeting.
- If delays in timelines will result in a safety issue for employee, an interim MAAP will be put in place.
- Timelines can be extended with mutual agreement
- All members of the MAAP team are active participants in the accommodation & dispute resolution process, and in order for resolution to be reached, either the entire team must reach consensus via the HR Lead recommendation

(Refer to table on next page for informal and formal processes)

Step	Responsible	Timelines(within)	Details
<u>INFORMAL PROCESS</u>			
1. Dispute as defined above is identified	Any individual(s) on MAAP team may identify a dispute (could be employee, union or supervisor or HR)	Day of MAAP meeting	<p>Individual initiating dispute resolution, retains the right to file an H&D complaint and may have rights to pursue a grievance to resolve this matter.</p> <p>However, once one of these procedures is initiated as a route to resolution, this dispute process cannot be used.</p>
2. Individual submits Employee Medical Accommodation Process Dispute Resolution Form to RTW/MA Program Lead (HR Consultant) (form located on HR Website) Locate your HR Consultant	Individual with dispute	5 business days	If RTW/MAAP Program Lead is the HR Consultant on MAAP team, form is instead submitted to VP Human Resources
3. Dispute Resolution Meeting(s) held	Program Lead schedules meeting Full MAAP team attends	5 business days	<p>The objective of this meeting is to clarify the nature of the dispute and will provide all parties an opportunity to communicate their perspectives.</p> <p>If more than one meeting is required, timelines may need to be extended.</p>
4. Program Lead recommends next steps on Employee Medical Accommodation Process Dispute Resolution Form	Program Lead	7 business days following the last resolution meeting	<p>Lead will email recommendations to all members of MAAP – recommendations may include mediator, external RTW specialist, escalation to VP HR for formal process, etc. if appropriate</p> <p>If satisfied, MAAP team meets to implement next steps within agreed upon timelines</p>

5. If any member of MAAP team is not in agreement with recommendations, dispute will proceed to formal process below.	individual requesting formal process		To Step 6 below
<u>FORMAL PROCESS</u>			
6. Appeal submitted to VP HR	individual requesting formal process	3 business days following receipt of recommended next steps	Complete Appeal to VP HR section on Employee Medical Accommodation Process Dispute Resolution Form identifying rationale for appeal & submit to VP HR via email
7. Meeting held to review appeal request	MAAP team, Prog Lead, VP HR	5 business days of receipt of appeal	The objective of this meeting is to clarify the nature of the dispute & appeal and will provide all parties an opportunity to communicate their perspectives.
8. Written response with potential next steps identified	VP HR	7 business days following appeal meeting	VP HR will email decision, rational & next steps to all members of MAAP & Program Lead Appeal process is concluded and MAAP team meets to implement next steps within agreed upon timelines.

6. Definitions (For All Cases)

Accommodation

Change, adaptation, or adjustment to an employee's work and/or workplace environment to enable the employee to perform the regular duties of a job in a healthy and safe manner. The employee may/may not have been absent from work.

Complex RTW

The employee is medically cleared to work with accommodation to the employee's hours of work, work schedule, or work duties.

Confidentiality

Personal information relating to an employee's medical circumstances cannot be obtained, used or shared without the written consent of the employee. All confidential medical information will be maintained in a secure location within Human Resources and will be separate and apart from the employee's general personnel records.

Disability

As defined in the Accessibility for Ontarians with Disabilities Act, 2005 which uses the same definition of “disability” as the Ontario Human Rights Code:

- “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, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- A condition of mental impairment or a developmental disability;
- A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- A mental disorder; or
- An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997 (“handicap”).

Functional Abilities

A medically supported maximum or minimum amount, quantity or number that is temporary or permanent, and that directly relates to an employee’s physical/mental capabilities in reference to the job duties.

Health Care Provider

An individual who is licensed and in good standing with a regulated health care profession and who possesses the knowledge, skills and experience to accurately assess an individual’s injury, illness or condition.

Independent Medical Examination (IME)

An examination of an individual by a qualified Health Care Provider who has not previously been involved in that individual’s care. IME’s may be conducted to clarify the prognosis and required treatment for an occupational or non-occupational injury/illness/condition or to help clarify the individual’s restrictions so that appropriate workplace accommodations may be undertaken by the employer. An IME may also be conducted to assess whether the individual has reached maximum benefit from a treatment plan and whether any permanent impairment remains which would necessitate permanent accommodation in the workplace. IME’s are arranged by and paid for by the employer.

Restriction

Anything related to an illness, injury or condition that prevents an employee from completing a particular job task, duty or schedule of work hours as outlined and supported through medical evidence.

RTW/MA Team

A team comprised of the appropriate workplace parties which is convened to develop and implement the RTW/MA Action Plan and to support the employee in the RTW/MA process. Typically, the workplace parties consist of the employee, supervisor, Union representative (if applicable), and HR Consultant.

RTW/MA Program Committee

A team established by the College and comprised of the appropriate workplace parties with the objective of supporting the overall RTW/MA program at the College including the review of statistical program data and formulation of recommendations for program improvements. The workplace parties consist of representation from labour (academic and support staff), management (administrative employee association), and Human Resources (VP of Human Resources; RTW Specialists; Benefits Administrator).

RTW/MA Action Plan

Documentation prepared by the HR Consultant for non-straightforward RTW/MA which summarizes the nature of accommodation including steps that will be taken to assist the employee during recovery phase, timelines for action steps, responsibility for who will do what in the plan, a RTW/MA schedule and reference to communication needs or issues, as appropriate. Upon request, this document will be provided in a format that takes into account the employee's accessibility needs due to an identified disability.

RTW/MA Mediator

An impartial third party who attempts to assist the workplace parties in reaching a voluntary resolution to a dispute or impasse related to a RTW/MA plan. Ideally, the RTW/MA Mediator will be experienced in RTW/MA matters and have knowledge of Human Rights and accommodation issues.

Simple RTW

The employee is medically cleared to return to their pre-injury/illness job without any modifications to work hours, work schedule, or work duties.

Supervisor

A person who has charge of a workplace or authority over an employee.