



# *Current Collective Bargaining*

## *Newsletter*

Upper Grand ETFO

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## UGDSB Attendance Support Program

### **(1) What is the purpose of Board's Attendance Support Program (ASP)?**

Rationale in the policy states: *"The Board has developed the Attendance Support Policy and Procedures to prevent or reduce absenteeism and to support employees when their absence rate exceeds the threshold set by the Board."* The policy prevention statement is: *"UGDSB will offer to assist employees who experience difficulty in achieving regular attendance."*

Board developed training materials also state: *"Although the purpose of the program is to provide support to employees, there are some unintentional outcomes. For example, inappropriate use of sick leave may be identified."*

### **(2) How does the Attendance Support Program work?**

According to the Board, during the current school year, the program will be phased-in across the system with approximately six elementary Principals being trained each month. Once trained, Principals are expected to examine Board prepared reports regarding Teacher absences and meet with a Teacher whose sick leave usage exceeds a threshold unilaterally set by the Board. The policy states *that "the purpose of the meeting is to confirm that the employee's use of sick leave is appropriate and to determine a path forward"*. Improved attendance is expected.

Teachers will have to ask their Principals when they will receive the training and what month ASP meetings may start at their school.

### **(3) What are the "absenteeism rates" or "thresholds" set by the Board?**

The following graduated thresholds are effective September 1, 2009:

- absences of two (2) or more days, consecutive or isolated, in September may lead to a Principal meeting with a Teacher in October;
- year to date cumulative absences of four (4) or more days, consecutive or isolated, during October to February may lead to a Principal meeting with a Teacher; and
- cumulative absences of five (5) or more days during the previous six school months, consecutive or isolated, from March forward may lead to a Principal meeting with a Teacher.

These thresholds were unilaterally established by the Board; they were not negotiated. In contrast, we have negotiated sick leave credits (days) and an accumulated sick leave account or "bank". Sick leave entitlements can be used as needed when you are ill, injured or needing to attend a medical appointment. You are entitled to use your sick days when you are not well.

### **(4) What may cause my Principal or Vice-Principal to invite me to an ASP meeting?**

Your Principal or Vice-Principal may schedule an ASP meeting with you when:

- absences can be reliably predicted (e.g. Mondays & Fridays);
- rationale for absences is questionable;
- several absences are a day shorter than the threshold to submit medical documentation; and/or
- sick leave usage is above the threshold set by the Board.

If the Disability Manager is already aware of a Teacher's medical condition, a meeting under the ASP may not be required.

### **(5) What will happen during an ASP meeting?**

Before the meeting, call Orchard Park for guidance. You should NOT meet with your Principal or Vice-Principal for an ASP meeting without an ETFO representative present.

During the meeting, your sick-day usage will be shown on a list or a calendar. You will be asked three questions:

1. ***"Is the attendance record correct?"*** – In other words, did you call in sick on these days? If an absence wasn't a sick day but, for example, a bereavement leave, a moving day, a personal day, etc., then this is an opportunity to correct the record. The purpose is to confirm the type of absence/leave, not to question the legitimacy of your illness.
2. ***"Do you have an ongoing medical condition that prevents you from attending work regularly?"*** – The Board expects a "Yes" or "No" answer. If you answer "Yes", the Board is assuming you have a medical condition that requires a workplace accommodation and will ask you to speak with the Disability Manager regarding your medical limitations and restrictions leading to an accommodation. If you do not have an ongoing medical condition, or, an accommodation is not being requested, you may answer "No", or, "I am not in need of an accommodation." Health information is private and you are not required to disclose any additional details to your Principal or Vice-Principal.
3. ***"Do you expect your attendance to improve, deteriorate or stay the same?"*** – Depending on your answer above, indicate that you will discuss this with the Disability Manager, or, indicate that you use sick leave only when necessary and that commitment will continue.

### **(6) Am I expected to discuss health information with my Principal or Vice-Principal?**

No, you are not obliged or advised to disclose health information to your Principal or Vice-Principal. This is private information. Nonetheless, the Union believes that you may feel pressure to "share" personal medical information with administrators during an ASP meeting. If you don't, you may be seen as uncooperative. If you do, significant stigma may be attached. Teachers are encouraged to rely on the following statement in the Attendance Support Policy: *"Privacy rights need to be protected. Teachers are not required nor should they disclose medical diagnosis or any other personal health information directly to their Principal or Vice-Principal."*

You are never obliged to disclose diagnosis to any Board personnel.

### **(7) What will happen as a result of the meeting?**

Generally, there are three possible outcomes:

1. You will be referred to the Disability Manager (Cheryl Mousseau) to discuss medical limitations and restrictions in order to develop workplace accommodations.
2. Your case will be referred to Jennifer Rose, Executive Officer of Human Resources, regarding concerns and next steps.
3. There will be no further referral, but attendance monitoring will continue.

If you have not already done so, please contact Orchard Park to discuss the outcome of your ASP meeting.

### **(8) Are the ASP meetings mandatory?**

Yes, the Board has made participation in the Attendance Support Program mandatory.

### **(9) Are the meetings about my attendance disciplinary?**

The Board has consistently stated that the attendance meetings are an endeavour to support employees' wellness. The Board says the meetings are informal and non-disciplinary.

However, the purpose of the ASP meeting *"is to confirm that the employee's use of sick leave is appropriate and to determine a path forward"*. The Board recognizes that the program may *"identify inappropriate use of sick leave"* and *"denial of sick leave benefits may ultimately be an outcome"*. The program will stream Teachers whose absences exceed Board established thresholds to either the Disability Manager or to the Executive Officer of Human Resources for consultation. Therefore, Teachers may feel that these meetings are in fact an initial, investigatory step in a disciplinary process.

But remember, under the collective agreement, we are credited "sick days" annually and have an accumulated sick leave account duly negotiated in good faith. You are entitled to use your sick days when you are not well.

### **(10) How do I explain the infrequent use of a sick day? How do I explain what the Board may refer to as "unusual attendance," "several unexplained incidental absences" or an "unexplained pattern of absences"?**

In accordance with Article 19.06 of the collective agreement, the only explanation that is required for incidental sick leave usage is "absent due to illness". Specifically, when a Teacher uses sick leave for an absence that does not exceed five consecutive days and indicates that they are absent due to illness, the absence has been explained.

If you are asked for details regarding a sick day absence, please remind your Principal or Vice-Principal that personal health information is private and you are not obliged to disclose that information directly to her or him. If questioning persists, please discontinue and indicate that you wish to contact the Union at Orchard Park.

### **(11) Is my health information private?**

Yes, but there are exceptions. In short, the Board's Disability manger (not your Principal or Vice-Principal) may request your medically related limitations and restrictions in order to provide workplace accommodations. The Disability Manager may also receive a medical note from you to substantiate an absence due to illness that exceeds five consecutive days. You cannot be required to disclose diagnosis and the Disability Manager must follow strict confidentiality rules.

The collective agreement provides the following:

1. In accordance with Article 19.07(a) of the collective agreement, a Teacher may be required to substantiate the reasons for any absence exceeding five consecutive days. Such request must be made within ten working days following a return to work. The "doctor's note" is to be submitted directly to the Disability Manager.
2. A Teacher seeking a workplace accommodation due to an illness or injury and Teachers involved in the Workplace Early Intervention Program (WEIP) due to an absence that exceeds five consecutive days may be required to have her/his physician or therapist complete the Board's medical certificate in accordance with Appendix "C" of the collective agreement. The form details medical restrictions and limitations which is used by the Board to determine appropriate workplace accommodations.
3. Where the Board has reasonable grounds to believe that a Teacher may be in need of accommodations for medical reasons, the Teacher may be required to complete the Board's medical certificate as per Article 19.07(b) of the collective agreement.

4. A Teacher absent for more than ten consecutive days may be required to release medical information to a doctor selected by the Board with respect to the reason for the absence in accordance with Article 19.08 of the collective agreement.

Note, the above four points DO NOT apply to incidental absences which is the focus of the ASP.

### **(12) What do I do if I need workplace accommodations for medical reasons?**

If you have a medical condition for which you are requesting an accommodation, please call Orchard Park and we will help you work with the Board's Disability Manager to obtain the accommodation you need. As your Union and your advocate, we have a single-minded focus on your well-being and have no conflict of interest with cost containment and attendance management issues.

### **(13) May I use my sick leave to attend medical appointments?**

Yes. Teachers exercise sound judgment when balancing health needs and professional obligations. As a result, Teachers attempt to schedule medical appointments outside of the regular school day and utilize sick leave when that is not possible.

### **(14) What's the Union's position regarding the Attendance Support Program?**

The Board is implementing the ASP. It is an unfortunate reality because the program is not needed. Teachers act responsibly and carefully when accessing their sick leave, and, the Workplace Early Intervention Program (WEIP) has operated well over the years. In other words, the Board should not try to "fix what is not broken".

As previously noted, the possible loss of privacy is a significant concern. The Union is also concerned that Teachers will report to work despite personal illness and potentially worsen their own health due to being "frightened" out of using their sick leave. Furthermore, the Union thinks that Teachers will be made to feel like their professional judgement and integrity regarding absences are being challenged. Nonetheless, it is important for Teachers to continue to use sick leave when they are not well.

The Union agrees that the Board does need to investigate, on a case-by-case basis, situations where the Board has reasonable cause to suspect an individual Teacher of abusing sick leave benefits. The Union, however, opposes subjecting all employees to the same system-wide blanket of increased surveillance and supervisor intervention.

ETFO has notified the Board that we reserve the right to file policy and/or individual grievances with respect to the Attendance Support Program and its administration. Teachers involved in the ASP need to contact Orchard Park.

Finally, the Union believes that an appropriate employee wellness program would, firstly, focus on communicating possible supports to Teachers then facilitate voluntary access to them and the Disability Manager, and, thirdly, address school climate and working conditions.

### **(15) What should Teachers do?**

Teachers make good, professional decisions when using sick leave and should continue to use sick days when personally ill. Teachers should also continue to use sick leave to attend their medical appointments that cannot be scheduled during non-school hours. When using sick days, Teachers should indicate that they are "absent due to illness" as per Article 19.06 of the collective agreement; additional details are not necessary for short-term, incidental use of sick leave. Finally, whenever a Teacher is absent, the Teacher should maintain a personal and private record of dates and reasons.

If you are asked to attend an ASP meeting or are in need of a workplace accommodation for medical reasons, please contact Orchard Park (519-837-0090).