

## **Dane County Return to Work Guidelines**

For situations that do not involve Worker's Compensation, Dane County Employees follow different policies when returning to work. The policy that applies to the Employee's situation varies with the kind of leave that the employee has used or reason that the employee was absent. This guideline does not include the Stay at Work policy.

In order to consistently apply these policies, we have developed an additional "Return to Work" Guideline document that summarizes the previously existing policies from either the Employee Benefit Handbook (EBH) or the Administrative Practices Manual (APM). The red heading describes the policy area and notes the source of the policy with either EBH for the Employee Benefit Handbook or APM for Administrative Practices Manual.

### **Risk Management/Employee Relations Return to Work Form**

<http://dcinet/forms/pdf/014-109.pdf>

### **APM; Sick Leave Use. #11 Manager/Supervisor "Action" Page 4**

<http://dcinet/resources/apm/pdf/hr-sickleave-01.pdf>

At the manager's discretion, a physician's release to return to work may be required after three (3) consecutive days of absence due to illness

### **EBH – Sick Leave, Page 153**

[https://admin.countyofdane.com/emprel/pdf/DC\\_EBH.pdf](https://admin.countyofdane.com/emprel/pdf/DC_EBH.pdf)

#### **f. Physical Examination by County Doctor:**

In the event that an employee shall have been absent under the provisions of this policy and returns to work without release from his/her own doctor, satisfactory to the County, the County shall have the right to direct the employee to a doctor selected and paid by the County. In the event that the employee shall be found fit to return to work, he/she shall be made whole for any necessary travel expense or loss of earnings incurred as a result of being directed to the County Doctor. The County may require at the County's expense a medical certificate or other appropriate verification of sick leave absence.

### **EBH; Leave of Absence/Medical Layoff – Page 88**

[https://admin.countyofdane.com/emprel/pdf/DC\\_EBH.pdf](https://admin.countyofdane.com/emprel/pdf/DC_EBH.pdf)

#### **Section 3, a. 3**

The County shall have the right to receive a satisfactory request from the employee to return to work and a satisfactory physician's statement of release for work from his/her physician before allowing the employee to return to work. If the physician's release is not satisfactory to the County, the County will direct the employee to a physician selected and paid for by the County for examination to determine if the employee is fit to return to his/her position. In the event that the employee shall be found fit to return to his/her position, the employee shall be returned to his/her position and made whole for any necessary travel expense from and to his/her home involved in his/her examination by the County's appointed physician or loss of earnings incurred as a result of being directed to the County's physician.

In the event that the County's physician does not find the employee fit to return to their position, and the employee's physician disagrees with the County's physician's finding, a third physician shall be mutually selected

by the County and employee to make the final determination on the employee's fitness. The fees charged by the third physician in connection with that physician determining the fitness of the employee to return to their position shall be shared equally by the County and the employee.

**ADA policy – APM, link:**

[http://dcinet/resources/apm/pdf/Employee\\_Request\\_for\\_an\\_ADA\\_Reasonable\\_Accommodation-Policy\\_+\\_Procedure.pdf](http://dcinet/resources/apm/pdf/Employee_Request_for_an_ADA_Reasonable_Accommodation-Policy_+_Procedure.pdf)

- All employees must perform all the essential functions of their jobs (with or without an accommodation).
- **If an employee cannot** perform all the essential functions of his/her jobs with or without an accommodation, then they are no longer qualified for that job, and should be on some sort of leave of absence until they can or they can transfer into another job. Often (at least twice a year), an employee will ask to have an essential function removed from a job description as a reasonable accommodation - but that is generally not allowed or required by law (more on that below);
- **If an employee can** perform all the essential functions of his/her job but only with an accommodation, they can request that accommodation. Employees should know that actually getting an accommodation takes time because (a) the employee must show that they are “a person with a disability” as that phrase is defined by the ADA – which requires medical documentation, which sometimes can be a slow and arduous process; and (b) the requested accommodation must be reviewed and approved by Dane County’s ADA Team. The whole time that the process is taking place, Dane County still expects the employee to perform all the essential functions of their job without an accommodation until a temporary or a permanent accommodation is in place.
- Temporary accommodations are not always available, practical, or permitted, and in those circumstances, the employee may be placed on leave of absence while an employee’s request for an accommodation is being processed, and/or after an accommodation is granted but is not yet in place
- Examples of temporary accommodations include:
  - A **temporary** change in the employee’s schedule or shift (to accommodate, for example, reported side effects of a medication);
  - When structural renovations are required, the employee might be allowed to **temporarily** work remotely until the facility is accessible;
  - A **temporary** job restructuring that would permit the employee to perform those job tasks for which an accommodation is not needed; and
  - When an employee with impaired vision will experience a delay in obtaining software, the services of a reader might be provided on an interim basis.
- The general definition of “reasonable accommodation” is an alternate way of performing all the essential functions of the job. Therefore, removing an essential function from a job description is generally not a reasonable accommodation. You can see that the first two examples above remove the essential functions of coming to work every day for 8 hours -- but these are temporary accommodations. The ADA generally does not require employers to allow their employees to change shifts or work from home indefinitely.
- Finally, most ADA litigation is usually not about whether the employer incorrectly determined that a requested accommodation was unreasonable; rather, most litigation is about an employer’s failure to engage in good faith with the required ADA interactive process.

**APM; Worker’s Compensation Return to Work.**

<http://dcinet/resources/apm/pdf/rm-workercomp-04.pdf>

Procedure, d)

Restrictive duty only applies to a medical condition arising out of a work related illness or injury. Therefore, restrictive duty is not an “accommodation” under the Americans with Disabilities Act (ADA). Please see our ADA policies for details on Dane County’s accommodation process.

**APM; Alcohol and Drug Testing Policy**

<http://dcinet/resources/apm/pdf/hr-alcoholdrug-01.pdf>

Section 6.4 – Post-accident Testing for CDL Holders

Dane County will test CDL Holders as soon as practical after a vehicle accident and if any of the following apply:

- If the accident resulted in a fatality, then all Dane County employees in the vehicle who were performing safety sensitive functions must be tested for alcohol within eight (8) hours and for drugs within thirty-two (32) hours;
- Anyone who receives a citation under State or local law for a moving traffic violation arising from the accident must be tested for alcohol within eight (8) hours and for drugs within thirty-two (32) hours;
- If the accident caused anyone to be transported to the hospital, then the driver must be tested for alcohol within eight (8) hours and for drugs within thirty-two (32) hours;
- If the accident caused major property damage, then the driver must be tested for alcohol within eight (8) hours and for drugs within thirty-two (32) hours.
- The County will provide CDL Holders with the necessary post-accident information, procedures and instructions.

Section 6.5 – Evaluation by an SAP and Return to Work Testing.

Any employee who engages in conduct prohibited under this policy, shall be evaluated by a Substance Abuse Professional (defined below) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use.

- The employee has the responsibility of choosing a n SAP. Not all SAPs are certified under the U.S. Department of Transportation’s regulations. If the employee is a CDL holder, the employee must verify that the SAP is DOT certified.
- Any employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use shall be subject to at least six (6) unannounced follow-up tests in the first twelve (12) months following the employee's return to duty. However, the Substance Abuse Professional may direct additional testing during the twelve (12) month period, or for an additional period not to exceed sixty (60) months from the date the employee returns to duty.
- An employee who returns to duty after violation of the alcohol misuse provisions will be required to undergo an alcohol test, with a resulting BAC of 0.00% necessary before the employee returns to duty requiring the performance of a safety-sensitive function. An employee who returns to duty after violation of the controlled substance use provisions will be required to undergo a controlled substance test, with a negative result necessary before the employee returns to duty requiring the performance of a safety-sensitive function.