



City of
Corpus
Christi

City Policies

**SUBJECT: LIMITED DUTY ASSIGNMENT
& REASONABLE ACCOMMODATION**

NO: HR 32.0

REVISED: 04/28/89

REVISED: 07/09/90

REVISED: 12/22/93

REVISED: 11/09/05

REVISED: 10/29/07

REVISED: 02/23/09

REVISED: 04/26/10

APPROVED: 
Angel R. Escobar, City Manager

DATE: 4/29/10

I. PURPOSE

This policy is intended to describe the rules and timelines that will be utilized by the City in dealing with employees who have medical restrictions as confirmed by examinations and/or treatments provided by qualified medical personnel.

Since the number and types of conditions that can result in medical restrictions are impossible to identify or anticipate for the purposes of this policy, discretion must be used by the Disability Review Coordinator in identifying or applying relevant provisions of the policy depending on individual circumstances. In making interpretation and application decisions, the Disability Review Coordinator may choose to consult with the Disability Review Committee. Additionally, the terms of this policy may be extended where necessary to enhance opportunities for reasonable accommodation.

II. SCOPE

This policy covers all regular full-time and part-time employees of the City of Corpus Christi, except where collective bargaining agreements and/or state law apply to Police and Fire employees. While temporary employees are not eligible for participation in the limited duty program, temporary employees with a medical restriction will be reasonably accommodated when required by law.

An employee who has been released to return to full duty after participating in this policy is not eligible to again participate in this policy for a re-injury or aggravation of the original injury, unless the re-injury or aggravation occurs more than one year after being returned to full duty. In the event of a catastrophic accident resulting in life threatening injuries to an employee already under the policy, the employee may be considered to have a new event, and be eligible for the full benefit of the policy.

III. DEFINITIONS

Attending Physician – the physician who is treating the employee for an illness or injury.

City's Designated Physician – the physician selected by the City to perform medical evaluations of employees, to review attending physicians' records, to refer employees, for evaluations by other medical professionals to determine an employee's ability to perform the essential functions of his or her job.

Disability Review Coordinator – the employee from the Human Resources Department assigned to administer this policy.

Disability Review Committee – the committee reviews cases under this policy. Members include the Director of Human Resources, Risk Manager, and representatives from the City Attorney's office and the city's designated physician's office.

Essential Function - the fundamental duties of the position. A task may be essential because the position exists to perform the function; or a function may be essential based on the number of other employees available to perform that task or among whom the responsibility of doing so can be distributed; or a function may be essential if it requires a certain degree of skill or specialization.

Family and Medical Leave Act – the federal law providing employees up to twelve weeks unpaid leave for a serious health condition. (FMLA has other provisions regarding serious health condition of a family member, birth and/or placement of a child in the home, military caregiver, and military duty provisions, however these are not applicable to this policy.) The City will designate FMLA leave concurrently with the no-work status leave period or other time-off granted by this policy.

Limited Duty – a maximum six (6) consecutive month period during which an employee who has been given medical restrictions by the city's designated physician can work for the City without being returned to full-duty in the position that the employee was working in before receiving the restrictions. The six (6) month period begins on the date that the employee is released to limited duty by the City's Designated Physician.

Limited Duty may follow a period of No-Work Status.

Limited Duty period may be extended up to an additional forty-five (45) days, if prior to the Contemplated Termination Rebuttal Hearing medical documentation is provided to the Disability Review Coordinator which states that there is a reasonable medical probability that the employee will be released to return to full duty within the additional forty-five (45) days following the end of the six (6) month Limited Duty period.

No-Work Status - The designation given to an employee when the employee is unable to perform any type of work for the City or if there is no limited duty assignment for the employee. This status may not exceed nine (9) consecutive months, beginning on the first day the employee is referred to the Disability Review Coordinator. No-Work Status will end when the employee is released to limited duty work or at the end of nine (9) consecutive months.

If, at any time during the nine (9) month No-Work Status the employee is released to work limited duty, the employee will begin limited duty status as described above, and the No-Work Status period will be considered exhausted. However, there will only be one No-Work status and one Limited Duty status granted to any employee for a qualifying event.

The No-Work Status period may be extended up to an additional forty-five (45) days, if prior to the Contemplated Termination Rebuttal Hearing medical documentation is provided to the Disability Review Coordinator which states that there is a reasonable medical probability that the employee will be released to return to full duty within the additional forty-five (45) days following the end of the nine (9) month No Work Status.

Reasonable Accommodation - any change in the work environment or in the way things are customarily done that enables an individual with a medical restriction to perform the essential functions of the job.

Return to Full Duty – returning to his/her regular duty position, with or without reasonable accommodation, or securing an alternate job placement under the Reasonable Accommodation policy.

Undue Hardship - an action requiring significant difficulty or expense -- i.e., an action that is unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the employer's business.

IV. LIMITED DUTY ASSIGNMENT POLICY

The City of Corpus Christi's Limited-Duty Program is designed to temporarily utilize employees to perform limited-duty work while recovering from injuries or occupational illnesses that arise out of and in the course of employment or off-the-job injuries/illnesses which prevent full participation at work. However, the City is not obligated under any circumstances to assign limited-duty work.

The City retains the right to remove or transfer an employee from a limited-duty assignment as deemed necessary.

This policy shall be executed in compliance with all applicable laws.

V. LIMITED DUTY ASSIGNMENT PROCEDURE

An employee who has been absent from work for more than ten (10) consecutive work days due to an illness or injury shall be referred to the Disability Review Coordinator by the department coordinator.

The Disability Review Coordinator will coordinate the limited duty assignment process.

The employee will consent to disclosure of medical information to the Disability Review Coordinator, Disability Review Committee and other city management personnel as deemed necessary by the Disability Review Coordinator or the city's designated physician.

A fitness for duty medical examination will be conducted by the city's designated physician prior to authorization for a limited duty assignment. The physician will evaluate the employee's medical records, establish contacts with the employee's attending physician(s) as necessary, provide medical advice concerning the employee, make referrals for evaluations by other health care providers and/or for medical rehabilitation, and provide information regarding medical restrictions, if any. The employee must be medically released by the city's designated physician to participate in a limited duty assignment.

If the city's designated physician's fitness for duty report states that the employee will be unable to return to his/her regular duty assignment for a period of more than six months, then the employee will be assigned a vocational rehabilitation specialist. Additionally, a vocational rehabilitation specialist may be assigned on a case by case basis as needed.

If there is disagreement between the city's designated physician and the employee's attending physician, a third opinion will be requested by the city's designated physician.

All medical records generated by the city's designated physician and those provided by the employee's attending physician will be made available to the Disability Review Coordinator and may be reviewed by the Disability Review Committee and other city management personnel. All medical records and information concerning an employee's condition will be kept confidential, to the extent allowed by law, and will be maintained on separate forms and in separate files from other personnel documents.

The Disability Review Coordinator will discuss the city's designated physician's limited duty recommendation, if any, with the employee and will advise the employee of the provisions of this policy.

The Disability Review Coordinator will identify available limited duty assignments either in the employee's department or another department. An opportunity for limited duty assignment in the employee's department will be considered first.

When designating work for a limited duty assignment the work to be performed must contribute to the achievement of the service goals and objectives of the City and must be consistent with the employee's medical restrictions. The employee must possess the necessary skills to perform the task assigned, perform the tasks satisfactorily, and dress appropriately for the assignment.

Upon assignment to limited duty work, regardless of which department the employee is assigned to, the home department will pay the employee's salary at the employee's regular duty pay rate, regardless of the nature of the limited duty assignment.

The employee is responsible for complying with the procedures outlined in this policy and keeping the home department informed on a weekly basis regarding the limited duty assignment, recuperation, duty status, etc.

The Disability Review Coordinator will monitor the employee's limited duty status, ensure that information regarding the employee is provided to the appropriate department, and will refer the employee for necessary training and/or testing. It is the home department's responsibility to remain knowledgeable about their limited duty employee's welfare and duty status through contact with the employee.

The department where the employee is assigned to limited duty will monitor the work performance of the employee and notify the Disability Review Coordinator of any performance and/or other work related problems which may be connected to the employee's medical restrictions. The head of the department, to whom the limited duty assignment employee has been assigned, may request a fitness for duty examination by the city's designated physician when an employee experiences performance problems potentially related to the employee's medical restrictions.

An employee may serve in a limited duty assignment up to a maximum of six (6) consecutive months. The six consecutive month period will begin on the date that the employee is released to limited duty by the city's designated physician. Once the period begins, it will continue to run regardless of illness, injury or re-injury of the employee, his/her receiving a limited duty assignment, or any other eventuality.

While on limited duty, an employee cannot work overtime or work in any outside employment. Outside employment includes either part-time or full-time, for pay, for self or another person, firm or company.

An employee on limited duty assignment who lacks his/her G.E.D. will be given an opportunity to earn a GED on their own time. The Disability Review Coordinator will advise each employee how to begin the GED process. The Human Resources Department will pay the costs of tuition and necessary study materials. The employee's progress will be monitored by the Disability Review Coordinator, and the employee will be required to provide status reports of his/her progress in the GED program.

The Disability Review Coordinator conducts meetings of the Disability Review Committee to report on developments in each employee's case and to discuss cases approaching the maximum time limits under the policy.

The Disability Review Coordinator will provide notification to an employee when no limited duty assignment is available.

If it is determined, upon medical examination by the city's designated physician that an employee's medical restrictions will likely be chronic, permanent, or long-term in nature and the employee will not be able to return to his/her regular duty position with or without reasonable accommodation, the city will consider the case under the Reasonable Accommodation for Disabled Employees policy. The employee will remain on limited duty status for the remainder of the six month period. However, if during the remainder of the six month period the employee is offered, in writing, a reasonable accommodation and/or alternate assignment, he/she will be removed from limited duty status.

If an employee exhausts the six month limited duty assignment period, fails to secure alternate job placement and is not released to return to his/her regular duty position, with or without accommodation based upon the fitness for duty examination and all other available information, the Disability Review Coordinator will notify the employee and the employee's home department, in writing that he/she is removed from limited duty, and will consider the case under the reasonable accommodation procedure that follows.

VI. EMPLOYEE STATUS & BENEFITS

Employees on No-Work status may continue to be employed for a period of up to nine (9) months from the date that their absence from work begins.

During this time the employee may draw pay from any eligible accruals or benefit sources (i.e. sick leave, vacation, personal leave, workers' compensation payments if applicable, and/or disability insurance if applicable.) It is the employee's responsibility to contact the Health Benefits group regarding disability insurance benefits.

1. While on FMLA leave and using accrued sick leave, personal leave or vacation leave, the employee's share of the benefit premiums, for those employees who have these benefits, shall be collected by payroll deduction.
2. While on leave without pay, whether FMLA qualified leave or not, the employee will be required to pay the employee portion of benefit premiums (i.e. for health insurance, dental insurance, life insurance, or disability plan, etc.), for those employees who have these benefits, as per City policy HR 8.0 AP 2 Benefit Coverage During No Pay Status. Upon the employee's return to work or termination of employment any arrears premiums that exist will be deducted from the employee's paycheck.
3. An employee who has exhausted all paid leave is not entitled to accrue additional vacation or sick leave during a period of unpaid leave. The Payroll Clerk shall prepare an Employee Change Form (Form 12) and forward it to the Human Resources Department inactivating the employee during any leave WITHOUT pay.
4. If the employee does not return at the end of the leave period, the employee's notification of his/her intent not to return (terminate, disability or service retire) will be a COBRA qualifying event. Contact the Human Resources Department for information on COBRA and for other health, life or disability insurance questions.

VII. USE OF PAID AND UNPAID LEAVE

1. If the employee has accrued paid leave, the employee must use accrued sick leave, personal leave, and vacation leave, if any, in that order.
2. As provided in Workers' Compensation law, the first seven (7) days of lost time from work due to an on-the-job injury is leave without pay. Employees will be required to use accrued sick leave, personal leave or vacation accrual, if any, in that order for these first seven (7) days or, if such leave is not available, be docked for that part of the seven (7) days not covered by such leave.
3. Employees who lose time in excess of 7 days due to an on-the-job injury will begin receiving Workers' Compensation, if eligible, after the 7th day and will be required to supplement weekly workers' compensation with sick leave accrual, personal leave or vacation accrual, if any, in that order. In no case will the employee be allowed to receive more compensation than the employee would have had he/she not been injured.
4. If the employee is away from his/her job for more than three weeks due to an on-the-job injury, Workers' Compensation which is reimbursed to the employee for week number one must be returned to the City, and the employee's applicable leave accrual will be reinstated accordingly by the Payroll Clerk.

VIII. REASONABLE ACCOMMODATION POLICY

The City will attempt to provide reasonable accommodations to the known medical restrictions of an otherwise qualified employee, in order for the employee to be given an opportunity to perform the essential functions of the job.

IX. REASONABLE ACCOMMODATION PROCEDURE

1. The employee requesting reasonable accommodation(s) should submit such request in writing to the Human Resources Department.
2. The Disability Review Coordinator will review the position description and task statements to ensure that they truly and accurately reflect the essential functions of the job. In order to be qualified for a job, the employee must have the skills, experience and knowledge reflected in the standard position description requirements with or without reasonable accommodation.
3. The City's Designated Physician may be asked to evaluate the ability of an employee to perform essential functions of the position in question. Because essential job functions vary with individual job descriptions and task statements and include those physical and cognitive activities necessary to effectively achieve anticipated job performance, the person's job function ability shall be determined on an individual basis. The City's Designated Physician may request written documentation or evaluation from a professional with knowledge of the person's functional limitations and abilities.
4. The Disability Review Coordinator, the Department, any rehabilitation professional working on the case, and the employee will work as a team to determine when possible, reasonable accommodations necessary to enable qualified employees with medical restrictions to perform the essential functions of their regular duty position. This process shall be overseen by the Disability Review Committee.
5. After determining the nature and type of reasonable accommodation needed, the Disability Review Coordinator will have the authority to provide reasonable accommodations when appropriate, including assigning, when called for under this policy, eligible employees to available vacant positions for which they qualify, with or without reasonable accommodation. The Department Heads shall accept such assignments made to their departments by the Disability Review Coordinator.
6. If more than one accommodation would be effective, the Disability Review Coordinator is free to choose among those accommodations and may choose one that is less expensive or easier to provide. The availability of funds will be verified by the Human Resources Department and may include a review of total city resources to determine if the accommodation can be provided.
7. If it is determined that the proposed accommodation is necessary, but would create an undue hardship, as determined from review of total City resources, this will not be construed to mean that the employee is not qualified for the job. The Disability Review Coordinator will inform the employee of the determination and allow the individual the opportunity to provide the accommodation through his/her own resources.
8. Once an accommodation has been made, the Disability Review Coordinator will monitor the effectiveness of the accommodation, and will coordinate, through the employee's department, periodic review of the employee's status and the continuing effectiveness of the accommodation. For all cases, these types of reviews will be conducted on at least an annual basis. This may include a Fitness for Duty examination by the City's designated physician, or other medical practitioner, and/or require the employee to provide related medical records from the employee's personal health care provider.

9. In the event that no reasonable accommodation to the employee's regular duty assignment can be made, the Disability Review Coordinator will initiate the following:
- If the employee qualifies for an available vacant position in the home department comparable in status and pay to the regular duty position, the Disability Review Coordinator will contact the department to arrange for the employee's alternate assignment to the vacant position.
 - If no position is available in the home department comparable in status and pay to the regular duty position, the Disability Review Coordinator will identify an available vacant position in another department comparable in status and pay to the regular duty position, if any, and contact the department to arrange for the employee's alternate assignment to the available vacant position.
 - All alternate assignments will be subject to an appropriate trial period as determined by the Disability Review Coordinator.
 - If there are no available vacant positions city-wide comparable in status and pay to the regular duty position, the Disability Review Coordinator will arrange for alternate assignment to a vacant lower level position, if any, for which the employee qualifies. If an employee is assigned to a lower level position he/she will retain the pay and benefits of the prior higher level position as long as it does not exceed the maximum pay range of the lower level position.
 - If there are no positions available, then the employee will be given written notification of this fact.
10. Efforts to reasonably accommodate and/or alternately assign an employee will end ninety (90) calendar days after an employee received written notice that he/she has exhausted the maximum length of assignment to limited duty and is still not released to return to his/her regular duty position with or without reasonable accommodation, or after completion of the nine (9) consecutive months of no work status.

X. END OF EMPLOYMENT

Employees will be recommended for termination of employment under the following conditions:

- After completion of the nine (9) consecutive months of no work status, unless the employee qualifies for an extension as described in the definition of No Work Status in Section III of this policy, or
- Following efforts to reasonably accommodate and/or alternately assign an employee which will end ninety (90) calendar days after an employee received written notice that he/she has exhausted the maximum length of assignment to limited duty and is still not released to return to his/her regular duty position with or without reasonable accommodation, unless the employee qualifies for an extension as described in the definition of Limited Duty in Section III of this policy, or
- Upon refusal by the employee of two proposed reasonable accommodations, or
- The employee fails to fully cooperate in any aspect of this program.

Employees terminated under this policy may reapply for employment with the City and will be considered on an equal basis with other applicants.

Upon the employee's termination, for any reason, all city provided rehabilitation, except any available under the city's health insurance if the employee opts for continued coverage, and/or any benefits available under worker's compensation, shall cease.

XI. VIOLATIONS OF THIS POLICY

Failure to comply with this policy will result in disciplinary action up to and including termination.

Violations of this policy for which an employee may be terminated include but are not limited to the following:

1. fails to report for two fitness-for-duty evaluation appointments, with the City's Designated Physician, or at the City-Designated Physician's referral, after being informed in writing of the date and time of the examinations, or
2. fails to report for limited-duty assignment at the date and time specified on the written notice to him/her, or
3. fails to return to regular duty assignment at date and time indicated on the written notice to him/her, or
4. engages in outside employment, either part-time or full-time, for pay, for self or another person, firm, or company while on limited duty or leave related to medical restriction(s) without authorization from the City-Designated Physician and Disability Review Coordinator, or
5. falsifies or misrepresents his/her injury/illness, or
6. refuses to accept or perform a different job assignment recommended by the Disability Review Coordinator or refuses testing, retraining or rehabilitation, or
7. fails to consent to disclosure of medical information or records to City management, Disability Review Committee, Disability Review Coordinator or City-Designated Physician, or
8. fails to fully cooperate in any aspect of this program.
9. engages in fraudulent behavior as related to their own injury, whether occupation or non-occupational, as found through surveillance services or other means.

XII. ADDITIONAL PROVISIONS

This policy does not in any way create a contract or affect legal relations between the City and its employees. The terms of this policy may be altered at any time by the City Manager. This policy shall not in any way enlarge the legal responsibilities or liabilities of the City beyond that required by statute.

XIII. QUESTIONS REGARDING THIS POLICY

Questions regarding this Policy shall be directed to the Director of Human Resources, or designee, who may be contacted at 361/826-3315.