

SECTION: Employee Relations
TOPIC: Stay at Work
DATE: May 2022

ADMINISTRATIVE PRACTICES MANUAL

Subject: Stay at Work

1) Purpose:

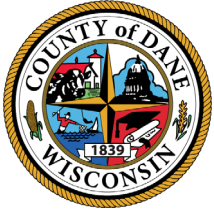
Often, employers can allow employees to return to their job or remain in their job under a stay at work program. These programs succeed by returning workers to productivity as soon as medically possible during their recovery process. While Dane County offers a disability insurance program for employees who cannot perform all the essential functions of their jobs (with or without an ADA accommodation), Dane County recognizes that disability benefits should not be the default path when viable full or partial return to work/stay at work options exist. By keeping our employees at work, fewer individuals will need to apply for or receive disability benefits.

The purpose of this policy is to authorize managers to use their discretion to ensure that the business of the County is completed even when an employee is temporarily unable to perform all the essential functions of their jobs. Under this policy, managers are authorized to make temporary job modifications, subject to availability and feasibility of modified work as determined by the manager.

2) Procedures:

a) Employee Notifies Management that they Intend to Utilize the Stay-at-Work Program

- i) An employee with work restrictions that **temporarily** prevent the employee from performing all the essential functions of their job can use their benefit time, **or the employee may notify the manager that they would like to utilize this stay at work program.**
- ii) In addition to notice to management that the employee would like to utilize this stay at work program, the employee is required to submit a completed Dane County Return to Work form.
 - (1) Under the various Employee Benefit Handbooks, the Return to Work form is always required when an employee returns to work after a Leave of Absence, a block FMLA, or a Medical Layoff.
 - (2) Under the various Employee Benefit Handbooks, managers may request a doctor's note when an employee is absent for more than three (3) days. The Dane County Return to Work form remains optional under these circumstances, except that when the employee wants to utilize this stay at work program, then the Return to Work form will be required.
 - (3) If the Return to Work form documents the employee may return without restrictions or with restrictions that allow the employee to perform all the essential functions of their job, then this policy does not apply.
 - (4) If the Return to Work form lists restrictions that **permanently** prevent the employee from performing all the essential functions of their job, then this policy does not apply, but the employee will be referred to the ADA Coordinator to engage in the ADA interactive process.



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b) Develop and Document the Job Modification

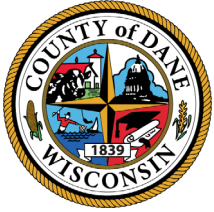
- i) Based on the information contained on the Return to Work form, managers have the discretion to make a temporary modification to an employee's duties for up to 60 working days (approximately 12 calendar weeks) or until the modification is not working in the best interest of the county (for example, there may be less work available than anticipated), whichever comes first.
 - ii) A job modification that was granted does not guarantee that it will continue unchanged for 60 working days and does not guarantee that a similar arrangement will be granted to all employees in the future. If there are two or more employees requesting temporary job modifications at that same time and there is insufficient work for both/all employees, then the job modification will be assigned on a seniority basis.
- ii) Job modifications allowed under this policy must be documented. The documentation must be signed by the employee and the manager and sent to Employee Relations to be placed in the employee's Personnel File. The documentation should describe the temporary modification and the date that the modification is anticipated to be no longer necessary.
- iii) Employee Relations does not approve any temporary job modification provided under this policy. Employee Relations does not have the authority to override a manager's decision not to offer a job modification.

c) Ending the Modification

- i) When the temporary modification expires, the Employee is expected to perform all of the essential functions of their job that existed prior to the temporary job modification.
- ii) If the employee is unable to perform all of the essential functions of the job that existed prior to the temporary modification, then the employee must be informed of the right to request an accommodation under the ADA and will be placed on a leave of absence or medical layoff as described in the applicable Employee Benefit Handbook. Any leave of absence will not be a paid administrative leave, however, the employee will be allowed to use time in their bank of wellness, sick or vacation time.

3) Clarifications/Limitations:

- a) This policy authorizes managers to use their discretion to offer temporary job modifications for employees who **temporarily** cannot perform all the essential functions of their jobs.
- b) Temporary job modifications available under this policy are subject to availability of modified work and the feasibility of modified work as determined by the manager. Temporary job modifications may not be



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possible in all circumstances. Managers are not obligated to provide a temporary job modification under this policy. Temporary job modifications may not be available or feasible in all circumstances. If a manager does not provide a temporary job modification and the employee cannot perform all the essential functions of the job without a job modification, then the employee must be placed on a leave of absence (but not paid administrative leave) and informed of the right to request an accommodation under the ADA. Temporary job modifications are handled on a case by case basis depending on the unique circumstances of both the employee and the needs of the department at the time of the request.

- c) This policy does not take the place of Dane County's policies regarding the Americans with Disabilities Act ("ADA"). Employees needing an accommodation to deal with a disability covered under the ADA should follow the ADA process. If an employee decides that an injury or impairment might be disability related at any time during a temporary job modification provided under this policy, the employee should contact the ADA Coordinator to discuss a potential Reasonable Accommodation request under the ADA.
- d) This policy does not affect Dane County's Worker's Compensation ("WC") policies. Employees who have been injured on the job should follow the WC process.
- e) This policy does not supersede related provisions affecting how employees Return to Work from a Leave of Absence, FMLA (non-intermittent), Medical Layoff, or Sick Leave. Policies contained in the Administrative Practices Manual or Employee Benefit Handbook that address these topics still apply.

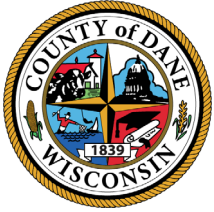
4) Guidelines & Resources:

The following is designed to help managers interpret this policy and the other relevant provisions of the Employee Benefit Handbook and the Administrative Practices Manual.

Dane County Return to Work Form
<http://dcinet/forms/pdf/014-109.pdf>

APM, ADA policy
<https://admin.countyofdane.com/documents/pdf/ADA/Employee-Request-for-an-ADA-Reasonable-Accommodation--Policy-And-Procedure.pdf>

All employees, including employees who have requested an accommodation, are expected to perform all the essential functions of their job without an accommodation until a temporary or a permanent accommodation is in place.



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Standard EBH language re: Sick Leave

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.

Standard EBH language re: Leave of Absence/Medical Layoff

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.