



RETURN TO WORK

POLICY HR011, EFFECTIVE 2014-12-30

POLICY STATEMENT

The Minnesota Department of Transportation (MnDOT) will make a reasonable effort to return employees to work who have temporary or permanent work restrictions due to ***non-work related*** illnesses or injuries.

Because of the varying issues and factors involved in returning employees to work, each situation will require a careful review on a case-by-case basis. Employees will be placed in jobs for which they are qualified, consistent with all applicable statutes, rules, regulations and collective bargaining agreements or plans.

REASON FOR POLICY

- Ensure employees with a non-work related illness or injury are able to safely return to work;
- Ensure compliance with [Reasonable Accommodation](#) and the [Family and Medical Leave Act](#), collective bargaining agreements/plans, and applicable state and federal laws and regulations.

For employees who are returning to work from a work-related illness or injury, see the [Worker's Compensation](#) policy.

WHO NEEDS TO KNOW THIS POLICY?

- All MnDOT employees
- Managers/supervisors
- Human Resources
- Equity & Diversity

DEFINITIONS

Essential Functions

The essential functions of a position are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be essential if the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the employee is hired based on his or her ability to perform them.

SENIOR OFFICER

Tracy Hatch

Deputy Commissioner/CFO/COO

POLICY OWNER

Karin van Dyck

Director, Office of Human Resources

POLICY CONTACT

Jodi Mathiason

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Office of Human Resources
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651-366-3404*

POLICY HISTORY

*2000-09-26, Established
2014-12-30, Revision 1*

[MnDOT Policy Website](#)

FMLA (Family Medical Leave Act)

The Family Medical Leave Act provides up to 12 weeks of job-protected leave for eligible employees for qualifying conditions. Refer to MnDOT's [Family and Medical Leave](#) policy for further information.

Permanent Work Restrictions

A limitation or condition that is expected to be permanent in nature and/or is chronic with long term impact, as determined by the employee's healthcare provider or a healthcare provider selected by Human Resources.

Reasonable Accommodation

A reasonable accommodation is an adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Refer to MnDOT's [Reasonable Accommodation](#) policy for further information.

Temporary Work Restrictions

A limitation or condition that is not expected to be permanent in nature and/or is non-chronic with little or no long term impact, as determined by the employee's healthcare provider or a healthcare provider selected by Human Resources. Whether a condition is temporary in nature must be determined on a case-by-case basis.

PROCEDURES

Returning to Work from a FMLA-covered Leave

Required Medical Documentation

Employees are required to provide a [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) to Human Resources prior to returning to work after an FMLA-covered leave for the employee's illness or injury.

- Human Resources must notify the employee in the FMLA Designation Notice of the requirement to provide a completed [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) prior to any return to work. In order for the healthcare provider to address the employee's ability to perform the essential functions of the job, Human Resources must include a list of the position description and/or a list of the physical demands of the job.
- The [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) must be completed by the employee's healthcare provider and may only address the illness or injury that caused the employee's need for FMLA leave. Human Resources will provide notification to the supervisor.
- If the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) is unclear, ambiguous or otherwise has information that is confusing or inhibits the ability for Human Resources to make a decision on returning the employee safely back to work, Human Resources will notify the employee about their responsibility to obtain further clarification from their medical healthcare provider. Human Resources may obtain further information or a second opinion in accordance with provisions of the FMLA.

Review Medical Documentation

Human Resources will review the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) that has been completed by the employee's healthcare provider to determine whether, when the employee can return to work, and if any temporary or permanent work restrictions have been recommended.

An employee returning from FMLA leave must be returned to their original position or an equivalent position, with equivalent benefits, pay, and other terms and conditions of employment, unless the employee is no longer able to perform the essential functions of his/her job with or without reasonable accommodations.

Temporary Work Restrictions

If temporary work restrictions are recommended by the healthcare provider to return, the employee to his/her current position, Human Resources, in consultation with the supervisor, will determine whether the employee can be safely placed in his/her current position or if a suitable light duty assignment is available. Any light duty assignment must comply with the employee's collective bargaining agreement/plan and MnDOT's [Reasonable Accommodation](#) policy.

An employee with a Workers' Compensation illness or injury will have priority to be placed in a light duty assignment over an employee with a non-workers' compensation illness or injury.

If the employee has not yet exhausted his/her full FMLA leave entitlement, the employee is not required to return to work prematurely to a light duty assignment. However, a light duty assignment may be offered and the employee may voluntarily agree to accept it so long as it meets his/her medical restrictions.

Once medical documentation shows that an employee is able to perform the essential functions of the job, the employee must be returned to his/her original position or an equivalent position, with equivalent benefits, pay and other terms and conditions of employment.

Permanent Work Restrictions

If the employee has exhausted his/her entitlement to FMLA and the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) indicates that the employee has a permanent work restriction(s), Human Resources, in consultation with Affirmative Action, will evaluate whether the restriction prevents the employee from performing an essential function(s) of his/her job.

If the restriction prevents the employee from performing an essential function(s) of his/her job, Human Resources, in consultation with Affirmative Action, will initiate the Reasonable Accommodation Interactive Process.

When Reasonable Accommodation options have been exhausted and the employee has expended his/her sick leave, Human Resources will determine if a medical leave of absence is appropriate. If none of these options are appropriate or available, the employee will be separated from employment, in compliance with collective bargaining agreements/plans.

Returning from a non-FMLA covered leave

- As soon as possible, but not less than two weeks prior to an anticipated return to work, the employee will contact Human Resources who will provide notification to supervisor.
- Human Resources will provide the employee with the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) and a list of the essential functions of the job, a position description, and/or a list of the physical demands of the job for the employee's healthcare provider to review when completing the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#).
- Prior to returning to work, the employee must provide Human Resources with a [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) completed by the employee's healthcare provider.
- Human Resources will review the completed [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) to determine whether and when the employee can return to work and if any temporary or permanent work restrictions have been recommended.
- If sufficient and complete information is not provided in the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#), Human Resources will direct the employee to obtain more information from the employee's healthcare provider or will request the employee to undergo a Fitness for Duty examination by a healthcare provider selected by Human Resources.

Temporary Work Restrictions

If temporary work restrictions are recommended by the healthcare provider to return, the employee to his/her current position, Human Resources, in consultation with the supervisor, will determine whether the employee can be safely placed in his/her current position or if a suitable light duty assignment is available. Any light duty assignment must comply with the employee's collective bargaining agreement/plan and MnDOT's [Reasonable Accommodation](#) policy.

An employee with a Workers' Compensation illness or injury will have priority to be placed in a light duty assignment over an employee with a non-workers' compensation illness or injury.

Once medical documentation shows that an employee is able to perform the essential functions of the job, the employee will be returned to work in accordance with collective bargaining agreements/plans. If the employee has been temporarily placed in a light duty assignment, the employee will be returned to his/her former position.

Permanent Work Restrictions

When the [Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#) indicates that the employee has a permanent work restriction(s), Human Resources, in consultation with Affirmative Action, will evaluate whether the restriction prevents the employee from performing an essential function(s) of his/her job.

If the restriction prevents the employee from performing an essential function(s) of his/her job, Human Resources, in consultation with Affirmative Action, will initiate the Reasonable Accommodation Interactive Process.

When Reasonable Accommodation options have been exhausted and the employee has expended his/her sick leave, Human Resources will determine if a medical leave of absence is appropriate. If none of these options are appropriate or available, the employee will be separated from employment.

RESPONSIBILITIES

Joint Responsibilities of Human Resources and Managers/Supervisors

- Ensure employees are working within their specified restrictions.
- Ensure employees who are placed in light duty positions have meaningful, productive work to perform.
- Ensure employees who are placed on a reduced work schedule are informed of the potential changes to health insurance coverage.
- Ensure all medical information obtained is kept in confidential secure files that are separate from all other employment files. Employees who obtain or have access to medical records or information are strictly bound by these confidentiality requirements and the [Government Data Practices Act, Chapter 13](#). If a dispute arises about the confidentiality or the legality of disclosing or refusing to disclose information under the state MGDPA or under federal law, the Office of Chief Counsel must be consulted.
 - Medical information may be disclosed on a “need-to-know” basis to Human Resources and Affirmative Action staff in compliance with applicable law, court order and/or with the employee’s written consent.
 - Information regarding the employee’s disability, medical records, or the need for accommodation will not be disclosed to other employees.
 - A supervisor or manager of the employee requesting the accommodation may be told about necessary restrictions regarding the work or duties of the employee and about necessary accommodations but not information about the medical condition or treatment.
- Ensure all medical information obtained is maintained in compliance with the [MnDOT Retention Schedule](#) and the [MnDOT Records Retention and Disposal policy](#).

Employees

- Provide timely, adequate medical documentation to Human Resources so that when appropriate, they can return to work.

Consult with Human Resources and their healthcare provider as soon as practicable if there are concerns about whether a particular assignment exceeds their restrictions

FORMS/INSTRUCTIONS

[Family & Medical Leave \(FMLA\) Fitness for Duty Certification form](#)
[Designation Notice \(Family and Medical Leave Act\)](#)

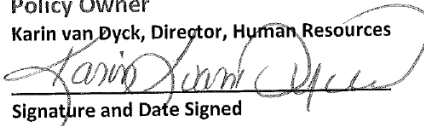
RELATED INFORMATION

[Americans with Disabilities Act](#)
[Minnesota Human Rights Act \(MHRA\)](#)
[The Occupational Safety and Health Act](#)
[MnDOT Family and Medical Leave Act policy \(FMLA\)](#)
[MnDOT Reasonable Accommodation policy](#)
[MnDOT Records Retention and Disposal policy](#)
[MnDOT Worker's Compensation policy](#)

POLICY OWNERSHIP AND AUTHORIZATION

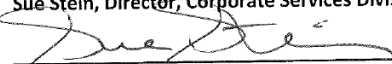
Policy Owner

Karin van Dyck, Director, Human Resources

 12-29-14
Signature and Date Signed

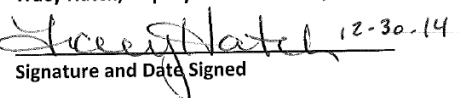
Governance Council

Sue Stein, Director, Corporate Services Division

 12-30-14
Signature and Date Signed

Responsible Senior Officer

Tracy Hatch, Deputy Commissioner, COO/CFO

 12-30-14
Signature and Date Signed