

TO: Mayor and City Council
THROUGH: Matt Fulton, City Manager
FROM: Sherrie Le, Assistant City Mgr.
DATE: February 8, 2016
SUBJECT: Personnel Policy – Light Duty Policy



City of West St. Paul

BACKGROUND INFORMATION: The Light Duty Policy addresses circumstances where employees could work with restrictions when they are unable to perform their full duties. There are federal and state laws that need to be taken into consideration when determining approval for leaves of absences and light duty. The Assistant City Manager oversees light duty and leaves of absences to ensure compliance and consistency of application.

This policy was recently shared with the Labor-Management Committee to seek their thoughts and suggestions. The one change that was recommended was incorporated. Policy attached.

FISCAL IMPACT: No direct fiscal impact. Allowing employees to work light duty, when feasible, helps to maintain their connection to the workplace and allows the City's work to get done. In some cases, the employee would be paid even if they remained at home, so by allowing light duty, we can continue to accomplish work objectives. This policy is therefore fiscally prudent, in addition to complying with applicable state and federal laws.

STAFF RECOMMENDATION: Staff requests approval of the revised Light Duty Policy as part of the City of West St. Paul Personnel Policies.

LIGHT DUTY ASSIGNMENTS AND REASONABLE ACCOMMODATION

1.1 POLICY

The City may assign light duty to employees who are temporarily unable to perform all of the essential functions of their job classification due to an injury or illness, provided that the light duty assignment is available and consistent with the standards and procedures set forth in this policy.

1.2 PURPOSE

The purpose of this policy is to establish the standards and procedures for light duty assignments. This policy does not supersede the MN Worker's Compensation Law for work-related injuries or State or Federal Law related to pregnancy accommodation or disability accommodations under the ADAAA. The Assistant City Manager is responsible for working with and advising departments on compliance with employment related laws and any employee medical issues. As such, light duty accommodations will be managed by the Assistant City Manager.

1.3 STANDARDS AND PROCEDURES

This policy should not be construed or interpreted to mean a right to light duty assignment nor that the City is compelled to grant light duty assignment at any time upon request by the employee.

Light duty assignment will be granted on a case-by-case basis with consideration of availability of appropriate light duty work, work restrictions, the ability of the City to make accommodations and undue hardship to the City. The following guidelines are provided to assist managers in complying with this policy and provide information to employees on their rights and responsibilities.

1. The City reserves the right to alter or discontinue the light duty assignments.
2. Light duty assignments should not displace a regular position.
3. Light duty assignments are intended for a temporary medical restriction. It will be granted on the expectation that the work restriction is temporary in nature and that the employee will be able to return to full performance of its regular duties and responsibilities, subject to ADAAA requirements.
4. Light duty assignments are intended for a short-term period up to a maximum of six months. An extension may be granted if light duty is available and consistent with the standards and procedures stated in this policy.

5. Light duty assignments must not hinder the City's ability to provide services to its citizens. It must not impose an undue hardship and budgetary or economic constraints to the City. It must not jeopardize the health and safety of the employee, co-workers, and the public.
6. Light duty assignment must be consistent with relevant Federal and State laws such as the ADAAA, FMLA, GINA, Human Rights Act, Pregnancy Discrimination Act, Worker's Compensation and the City's Personnel Policy and Labor Agreements.
7. Providing a light duty assignment is not an admission on the part of the City that the employee has suffered a work-related injury or that the injury is compensable under the MN Worker's Compensation Law.
8. Light duty assignments are not normally mandatory for non-work-related injuries but each case will be determined on an individual basis and all State and Federal laws and regulations will be followed. It is mandatory for work-related injuries pursuant to the MN Worker's Compensation Law and for pregnancies where restrictions are established if light duty is available and can accommodate the employee's work restrictions.
9. While the City will consider light duty assignments for work-related and non-work-related injuries, work-related injuries and pregnancy accommodation will have priority over non-work-related injuries in assigning light duty.
10. It is the responsibility of the employee to notify the department director of a temporary work restriction and to initiate a request for light duty assignment. Should any supervisory representative have knowledge of a possible work restriction, it should be promptly reported to the Assistant City Manager.
11. To initiate the process, the employee must provide a physician's detailed Report of Workability to the Assistant City Manager containing the specific work restrictions, expected duration of restrictions, and expected time frame for return to regular duties. The City may waive this requirement for injuries of short duration. Periodic physician's reports will be required.
12. The City reserves the right to obtain an independent evaluation from a City designated physician.
13. If possible, every effort will be made to provide a light duty assignment that is comparable to the employee's regular position in nature and level of responsibility, pay rate; knowledge, skills, and abilities; and within the same department. If this is not possible, the light duty assignment may provide in another department and at the established pay rate for the assigned duties.

14. The employee must be able to demonstrate the knowledge, skills and abilities required for successful performance on the light duty assignment.
15. Light duty assignments will be evaluated monthly or more often as needed to determine if employee is able to perform the duties of the position and to determine employee's progress toward expected time frame for return to regular duties.
16. The employee must present a physician's report stating that employee is able to perform the essential functions of the job with or without restrictions that can be reasonably accommodated without causing significant difficulty or expense for the employer. If accommodations are needed to perform the essential functions under a situation where the ADAAA is applicable, the City will work with the employee to determine what accommodations are reasonable consistent with ADAAA requirements.
17. Failure to comply with requirements of this policy may result in the denial of or termination of any light duty assignment.

1.4 DISABILITY DISCRIMINATION, REASONABLE ACCOMMODATION & UNDUE HARDSHIP

A **reasonable accommodation** is a change in the way a job is performed, or to other parts of the job (like training or benefits) that allows a person with a disability to have equal employment opportunities.

In accordance with the American's with Disability Act, the City is not required to provide an accommodation if doing so would cause undue hardship to the City. Undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of the City's size, financial resources, and the needs of the City. However, the City will not refuse to provide an accommodation just because it involves some cost. The City will discuss possible accommodations with the affected employee and will consider the request and other accommodations that may work. If more than one accommodation will work, the City will choose which one to provide.

1.5 HANDLING OF MEDICAL INFORMATION

Information relating to light duty assignment and medical information will be handled on a need-to-know basis only and in accordance with HIPAA and the MN Data Practices Act and will be coordinated through the Assistant City Manager.

For Employees who have a disability as defined under the ADAAA, the City will require a doctor's statement or medical exam to support an employee's request for an accommodation and in situations where the City believes that an employee is not able to perform a job successfully or safely because of a medical condition.

All medical information received by the City from an employee or employee's physician will be treated as confidential medical records and will be maintained by the Human Resource Department under the direction of the Assistant City Manager. All medical records will be filed separately from an employee's personnel file.