

TITLE	POLICY NUMBER	
Modified Duty Policy	DCS 04-34	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Human Resources	05/10/17	3

I. POLICY STATEMENT

It is the policy of the Department of Child Safety (DCS) to temporarily modify the job duties of an employee because of short-term physical or mental injury/illness when it is possible and in the best interests of the Department. This policy provides guidelines for the uniform treatment of employees who, because of a temporary physical or mental injury or illness, cannot perform the duties normally assigned to their job.

II. APPLICABILITY

This policy applies to all Department staff who, because of temporary physical or mental injury or illness, cannot perform normal duties, and staff that supervise employees who, upon return to work after an injury or illness, provide a release by a licensed physician that indicates an employee's need to return to modified duty.

III. AUTHORITY

[A.A.C. R2-5A-D602](#) Arizona Administrative Code Personnel Rule: Industrial Disability

[A.A.C. R2-5A-C602](#) Arizona Administrative Code Personnel Rule: Leave Without Pay

IV. DEFINITIONS

Accident: An unplanned incident that occurs and results in an injury or illness, and/or property damage or the probability thereof.

Department (DCS): The Department of Child Safety.

Essential Functions Questionnaire (EFQ): A questionnaire distributed by the FMLA/ADA Coordinator used to determine an employee's physical/mental capabilities to perform essential job functions completed by the employee's treating physician.

Illness: Any abnormal condition or disorder (other than one due to an occupational injury) that is caused by being exposed to harmful things. This includes acute (sudden or short-term) and chronic (ongoing or long-term) illnesses or diseases that may be caused by inhaling (breathing), absorbing (through the skin), ingesting (eating or drinking), or coming into direct contact with chemical substances.

Independent Medical Examination (IME): A medical examination used to determine an employee's physical/mental capabilities to perform essential job functions conducted by an independent physician identified by DCS or ADOA Risk Management.

Injury: Physical harm or damage to the body that results from contact with mechanical, chemical, thermal, or other environmental energy.

Licensed Physician/Health Care Provider: Doctors of medicine or osteopathy who are authorized to practice medicine or surgery (as appropriate), and licensed by the State of Arizona to provide diagnosis and treatment of health problems. This includes but is not limited to: podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by x-ray), nurse practitioners, nurse midwives who provide diagnosis and treatment, and Christian Science Practitioners.

Modified Duty: Work that eliminates, minimizes, or alters certain job functions normally performed by an employee. Modified duty may involve employee performance of all regular duties but at a reduced number of hours per week, hours per day, or minutes per hour, or job tasks that are not normally performed by the employee.

Permanent Partial Disability: A disability involving a specific body part that permanently affects an employee's ability to do his/her job or get another job.

Permanent Total Disability: A disability that makes the employee completely and permanently unable to perform gainful (financially worthwhile) employment. Permanent total disability will be determined through the Arizona Department of Administration (ADOA), Risk Management Workers' Compensation section, or a Long-Term Disability provider.

Restrictions: Any physical or mental limitation that prevents employees from performing all the duties of their regular jobs.

NOTE: These definitions apply to this policy; ADA definitions may vary. Refer to [DCS 04-03 Implementation of the Americans with Disability Act – Title I](#) for ADA definitions.

V. POLICY

- A. DCS Human Resources shall make every reasonable effort to provide modified duty for an employee based on the treating physician's work restrictions and recommendations. Every effort should be made by the Department's FMLA/ADA Coordinator and management to return injured employees to work in a full or modified duty status as soon as possible.
- B. Placement of employees with a Permanent Disability shall be made in accordance with the Americans with Disabilities Act (ADA) as amended. Refer to [DCS 04-03 Implementation of the Americans with Disability Act – Title I](#).
- C. Prior to returning to work after an injury or illness, an employee must provide a written release by a licensed physician to the FMLA/ADA Coordinator. The release shall indicate the employee's ability to return to regular or modified duty. If modified duty is indicated, the physician shall specify the work restrictions and duration of said restrictions.
 - 1. An employee with no restrictions or limitations shall report to regular duty.
 - 2. If the designated physician releases the employee to modified duty, the employee will submit a physician's certification of specific duties the employee is able to perform and will identify all work restrictions and duration of said restrictions.
- D. The FMLA/ADA Coordinator in collaboration with management will review and determine whether to approve a modified duty assignment, based on business needs. If unable to find placement due to restrictions, the employee will continue on leave until able to return to full duty.
- E. When returning an individual to work and placing the employee on modified duty, the supervisor may only need to make small changes in an individual's normal job functions in order to implement a doctor's modified duty recommendations. Whenever a supervisor is attempting to return an individual to modified duty, the doctor's modified duty restrictions will be followed.
- F. A modified duty assignment shall be made for no more than six weeks. The Regional Program Administrator, or equivalent, in conjunction with DCS Human Resources, may grant an extension in writing on a case-by-case basis for an additional period of time upon review of a physician's written statement.

- G. If at the end of the modified duty assignment, the employee is unable to perform the full scope of duties of the employee's position, the employee will be placed in an appropriate leave status. Consult [DCS 04-03 Implementation of the Americans with Disabilities Act](#) for ADA definitions. The FMLA/ADA Coordinator, in consultation with the employee's management chain, may elect to have an *Essential Functions Questionnaire* completed by the employee's treating physician or have an Independent Medical Examination conducted.
- H. When an employee has an ongoing Workers' Compensation claim, ADOA Risk Management will determine and coordinate any medical examinations necessary to assess the employee's ability to return to work. The FMLA/ADA Coordinator and the ADOA Risk Management shall submit an *Essential Functions Questionnaire* to the employee's physician or the physician conducting the Independent Medical Examination.
- I. The FMLA/ADA Coordinator must maintain documentation of an individual returning to modified duty on the *Essential Functions Questionnaire* (see Exhibit 1) and a physician's note submitted by the employee. If the individual is unable to return to modified duty, this must also be documented in order to avoid potential penalties in the future.
- J. Modified duty may involve employee performance of all regular duties but at a reduced number of hours per week or per day, or job tasks that are not normally performed by the employee.
1. Modified duty may consist of the amount of hours an employee is allowed to work in a given week, i.e., four hours per day, five days a week. When a doctor releases an employee to modified duty entailing a reduced work schedule, the Department will not accept modified duty with restrictions of less than four hours per day five days per week.
 2. Restricted duty may consist of work restrictions, e.g., cannot lift more than “#” pounds, and type more than “x” hours per day. The employee's or employer's doctor will make work restriction recommendations. The Department will make every reasonable effort to return the employee to work within his/her given work restrictions.
- K. It is the employee's responsibility to inform the Employee Relations Analyst of his/her medical status as it pertains to modified duty. If the employee fails to inform the FMLA/ADA Coordinator of the modified duty status, the FMLA/ADA Coordinator should inquire of the employee if he/she is released to modified duty. The employee is responsible for providing a medical release for modified duty. The FMLA/ADA Coordinator will keep the employee's management chain apprised of the employee's

status.

- L. While temporarily assigned to the modified duty program, the employee will be paid at the employee's normal hourly rate of pay.
- M. Conflicts in returning individuals to modified duty will be resolved by Employee Relations and the Regional Program Administrator or equivalent, or designee.
- N. Modified duty assignment due to an industrial injury, if refused by an employee, will result in the discontinuance of Workers' Compensation benefits.
- O. If an injury or illness results in the employee being unable to perform the essential job functions of his/her position, with or without a reasonable accommodation, consult with the FMLA/ADA Coordinator .

VI. PROCEDURES

- A. Steps for Managing Modified Duty
 1. An employee released to return to work with restrictions will submit a physician's note prescribing modified duty and limitations to the FMLA/ADA Coordinator.
 2. The FMLA/ADA Coordinator and the supervisor discuss the modified duty restrictions to determine if there are duties within the work center the individual can perform that do not violate the doctor's recommendation.
 - a. The supervisor places the employee in a modified duty status and/or returns him/her to full work status. If modified duty is not available within the work center, reassignment will be considered. If no modified duty is available, the employee shall be placed on the appropriate leave status until released to a modification that can be accommodated or release to full duty;
 - b. If the illness or injury is work-related, ADOA Risk Management notifies the FMLA/ADA Coordinator when the individual is placed in a modified duty status.
 3. If modified duty is approved, the FMLA/ADA Coordinator will prepare a letter documenting the approval of up to six (6) weeks of modified duty for the Regional Program Administrator or equivalent's signature and issuance to the employee.
 4. If the modified duty extends beyond six (6) weeks, the FMLA/ADA Coordinator , in consultation with the employee's management chain, may elect to have an *Essential*

Functions Questionnaire (EFQ) completed by the employee's treating physician. The employee submits the EFQ to the treating physician for review and completion. For work-related injuries, the FMLA/ADA Coordinator or ADOA Risk Management may submit an *Essential Functions Questionnaire* to the employee's physician or the physician conducting the independent medical examination.

5. Program Managers/Administrators shall resolve any conflicts in returning individuals to modified duty within his/her area of responsibility, and shall also approve any requests to extend modified duty.
6. DCS Human Resources shall maintain records of employees within the Department who have been placed in modified duty assignments.

VII. FORMS INDEX

Sample Essential Functions Questionnaire (Exhibit 1)

Sample Essential Functions Questionnaire

Exhibit 1

TO: Treating Physician

FROM: Employee Relations Human Resources Manager
Arizona Department Child Safety
3003 N. Central Ave.
Phoenix, AZ 85012

SUBJECT: Medical Questionnaire
Essential Functions for a Child Safety Specialist

Re: EMPLOYEE NAME

We are requesting information regarding [EMPLOYEE'S] ability to perform the tasks of a Department of Child Safety Specialist (DCSS). [EMPLOYEE] is currently a DCS Specialist. We have become concerned about [EMPLOYEE'S] ability to effectively perform the essential functions of her job due to her medical condition.

DESCRIPTION OF CONCERN

[EMPLOYEE'S] primary responsibilities are to provide ongoing in-home DCS services to children and families. The average caseload for an in-home DCS Specialist is approximately 35 children and their families. DCS Specialists are accountable for assessing the continued safety of abused, neglected, or dependent children. This includes weekly face to face contact with children, youth, parents, and out of home caretakers.

[EMPLOYEE'S] job functions require the ability to regularly drive to appointments to carry out her job duties as a DCS Specialist. At times, she may remove, lift, carry and transport children and their belongings. Travel up to 150 miles one way, lifting up to 50 pounds, making regular home visits to children, parents and caretakers, attending court hearings and other meetings are required. Most tasks, including client home visits, are conducted alone and unaccompanied. DCS Specialists may also be required to work, as needed, on evenings/nights, weekends and holidays. Child welfare work is stressful and cases may involve individuals with a history of substance abuse, criminal activity, and/or domestic violence. On some occasions, the DCS Specialist may be met with resistance and/or hostility. [EMPLOYEE'S] job functions require the ability to deal calmly and effectively with stressful situations, demonstrate willingness to be adaptable, take on responsibilities and challenges, and be reliable, responsible, and dependable in fulfilling obligations.

Please indicate whether, in your professional opinion, this employee is able to perform the following essential functions of a DCS Specialist on a daily basis. If the answer is "No" to any question, please provide an explanation of why the employee is not able to perform the function.

1. In carrying out the required functions of the job, DCS Specialists must be physically able to lift up to 50 pounds. For example, they may be required to carry children and their belongings, lift and carry files. Is the employee able to meet this requirement?

Yes ____ No ____

If no, please explain.

2. In carrying out the required functions of the job, DCS Specialists are regularly required to travel, which may involve trips of distances up to 150 miles in each direction and are typically conducted unaccompanied. This includes regular visits to out of office locations with children, parents and caretakers to assess safety and risk and evaluate home situations. These contacts may be made under stressful situations due to angry, hostile or confrontational individuals. This also includes travel to attend Court hearings, staffings and other meetings related to the child and family. There may be travel to isolated areas with limited facilities. Is the employee able to meet this requirement on a daily basis?

Yes ____ No ____

If no, please explain.

3. Transports children, youth, parents, and others involved to medical appointments, placement, visitation, and supportive or therapeutic services as necessary, or as identified as part of the case plan. Travel may be in excess of 150 miles in one direction. Is the employee able to meet this requirement on a daily basis?

Yes ____ No ____

If no, please explain.

4. Performs standby duty, i.e. responding to an emergency or crisis situation on evenings/nights, weekends and holidays. This task often requires travel, which may involve long distances, up to 150 miles in each direction and is typically conducted unaccompanied. Is the employee able to meet this requirement?

Yes ____ No ____

If no, please explain.

In addition to the above questions, please answer the following:

5. Does the employee have a medical condition that would interfere with the employee's ability to fully complete the job functions described in questions 1-4?

Yes ____ No ____

If yes, how would the medical condition affect their ability to complete the job functions?

6. What side effects may be experienced from any prescribed medication? Are other areas of physical or mental functioning affected or impaired by the medication which would impact the employee's ability to perform her job duties as described? Please explain.

7. Is there a reason, related to a medical condition, to believe that the employee is likely to experience injury, harm or aggravation of the medical condition by performing or attempting to perform the described tasks and duties?

Yes ____ No ____

If yes, what is the degree of injury, harm or aggravation that should be expected and what is the likelihood that this will occur?

8. If restrictions on the activity of the employee are warranted because of a significant risk of substantial harm to the employee or to others, what type of measures should be considered in identifying possible accommodations to eliminate the reason for the restrictions?

9. Is there a reason, related to a medical condition, to believe that the employee is likely to experience sudden incapacitation?

Yes ____ No ____

If yes, to what degree could the employee be incapacitated? What is the likelihood that this will occur?

10. Is there reason to believe the employee will have warning signs of onset of an incapacitating episode?

Yes ____ No ____

Please explain.

11. Do you believe the employee would have sufficient time to remove herself or others from potential harm prior to onset of an incapacitating episode? For example, if she was driving, carrying a child, or in an isolated area.

Yes ____ No ____

If no, please explain.

12. Is the employee likely to recover sufficiently to have the capacity to perform the essential functions of the job, with or without reasonable accommodation?

Yes ____ No ____

If yes, what is the time frame?

If no, what is the reason?

13. If the employee is unable to perform one or more of the essential functions listed in questions 1-4, would the employee be able to perform that essential function with reasonable accommodations?

Yes _____ No _____

If yes, please describe the accommodations needed for the employee to perform the essential functions of his job.”

Should you have any questions, please call me at TELEPHONE. Please return the completed questionnaire to me at the above address or fax it to my attention at 602-255-3241.

I hereby authorize my physician to release any information regarding my current medical condition and treatment, including any relevant medical history, as it relates to my ability to perform the essential functions as described above.

Employee’s Signature

Date

Physician’s Signature

Date

Physician’s Name (Printed)

Address

Telephone Number

Notice under the Genetic Information Nondiscrimination Act of 1508 (GINA)

The Genetic Information Nondiscrimination Act of 1508 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.