



**ADAAA/WFEA
POLICY AND COMPLIANCE MANUAL
January 2016**

Disabled Employee Placement Program – DEPP

PURPOSE

In accordance with provisions of MCO Chapter 350-37-7, the Department of Employee Relations (DER) has the authority to develop guidelines and procedures to administer the disabled employee placement program and coordinate participation with other benefits, regulations and employment conditions.

The goals of the Disabled Employee Placement Program (DEPP) are to:

- provide an opportunity for general city employees with permanent medical restrictions who are unable to continue employment in their current position to find alternative placement within the city service, consistent with those medical restrictions; and
- Comply with requirements under Worker's Compensation-Wisconsin State Statutes, Chapter 102 and the ADA/ADAAA, the Wisconsin Fair Employment Act, and Chapter 350-35-7 of the Milwaukee Code of Ordinances.

PROGRAM

1. DEPP Referral by Employee's Department: After exhaustion of the ADA/ADAAA interactive process for the employee's own position and after consideration of vacant and funded equivalent and lower-level positions within the department for which the employee is objectively qualified, that are consistent with the employee's medical restrictions and that the department intends to fill, management shall consider a referral of the employee to the DEPP.
2. DEPP Participation: The Department of Employee Relations (DER) will work with the employee to determine if placement in an alternate lateral or lower level position within the City Service is feasible. Placement will be contingent upon a number of factors, including

but not limited to: the availability of a vacancy that the appointing authority wishes to fill and the employee's ability to meet the job requirements, with or without reasonable accommodation. A referral to the DEPP does not guarantee placement.

- a. Placement will be limited to the employee's service status; an employee holding an exempt appointment with no prior civil service status, is not eligible for placement in a regular civil service position as a result of a DEPP referral.
 - b. An employee will not be eligible for placement in a position that results in a promotion, except where the employee would have been qualified for promotion under Civil Service Rules regarding appointments or promotions.
3. DEPP Completion: Eligibility for participation in the DEPP ends when the employee:
- a. is placed in an alternate City position;
 - b. no longer meets the DEPP requirements;
 - c. fails to comply with the DEPP requirements, or
 - d. When the City is unable to place the employee in a lateral, or lower level, vacant and funded position that the City intends to fill, within one (1) year after enrollment in the DEPP.

PROCESS

REFERRING DEPARTMENT'S RESPONSIBILITIES:

1. Complete the ADAAA Interactive Process with an employee who has a need for accommodation. Refer to Section III of the City of Milwaukee ADAAA/WFEA Policy and Compliance Manual.
2. If no reasonable accommodation can be made to allow the employee to continue working in the current job, review all vacant and funded positions within the department to determine whether a transfer is appropriate.
 - a. Create a dated list of the vacant positions in the department, documenting all lateral or lower-level positions considered and the outcome of that review.
 - b. If a vacant lateral position is offered to the employee and the employee rejects that position, a separation may be appropriate (consult with DER and/or the City Attorney's Office prior to taking such action); an employee with regular status who is separated from the City Service may be entitled to a separation hearing under Rule X, Section 3 of the Rules of the City Service Commission.
3. Document all efforts to make a reasonable accommodation and attach to the file.

4. If no accommodation can be made, discuss other options with the employee, including:
 - a. FMLA
 - b. Medical LOA (approve at three month intervals)
 - i. If, after first three months, the medical documentation does not provide an expected return date, a separation may be appropriate (Consult with the DER and/or the City Attorney's Office prior to taking such action).
 - c. Duty disability retirement.
 - d. Ordinary disability retirement
 - e. A DEPP referral, if employee is actively trying to return to work
 - i. A DEPP referral may be made even while the employee is on FMLA or other paid leave; paid leave does not extend the one year DEPP enrollment period.
5. When an employee requests referral to the DEPP
 - a. If sick leave, vacation, TVA, comp time, FMLA or other accrued time off benefits are unavailable, the employee shall resign his or her title and request a Leave of Absence (LOA) for DEPP enrollment for a period of up to one year. The Department shall approve this request for leave.
 - b. The combined total of paid accrued time, unpaid FMLA leave and LOA for DEPP enrollment shall not exceed one calendar year from the date of the DEPP enrollment.
 - c. The Department shall send a referral letter to DER that includes a statement of all relevant facts related to the situation. Include in the letter all relevant facts related to the situation such as the steps that the Department has taken in an attempt to resolve the matter and copies of all related ADA/AA documents relative to the referral such as:
 - i. Disability Accommodation Request form
 - ii. Disability Medical Information Request Form
 - iii. All *related* FMLA or other medical documentation,
 - iv. A statement of accommodations and/or other lateral or lower level vacant and funded positions that were considered, and the result of that analysis.

- v. A statement of how the individual will be carried on the Department's payroll (i.e. sick leave, vacation, FMLA etc.) and when those benefits will be exhausted,
 - vi. A copy of the LOA form, and
- d. Send the employee a copy of the referral letter and restate in the letter that the City will endeavor to find alternative employment but that alternative employment is not guaranteed.
6. Continue to monitor vacancies within the Department as they occur and contact the DER DEPP Program Manager immediately if a suitable lateral or lower level position becomes available.
7. Notify the DER DEPP Program Manager immediately if the employee returns to work.

EMPLOYEE RESPONSIBILITIES:

1. Notify the current employing City Department of any medical restrictions that do not allow him or her to work in his or her current position, and provide documentation as requested.
2. Participate in the ADA/ADAA interactive process with the current employing City Department.
3. Upon conclusion of the ADA/ADAAA interactive process, and when no accommodation or reassignment is possible, you may request a referral to the DEPP. A DEPP referral requires an employee to:
 - a. Resign from his or her current position (resignation from title only) prior to enrollment in DEPP. (Note: should the medical restrictions change in the future, the employee would be able to request reinstatement to this position in accordance with Civil Service Commission rules and Reinstatement Policy). If the employee is currently on unpaid FMLA leave or other accrued time off, the employee may enroll in the DEPP but will be placed on a LOA and resign his or her title once the unpaid FMLA or accrued time off is exhausted. The employee may participate in the DEPP for no more than one calendar year, cumulatively.
 - b. Complete and return the DEPP application by the specified deadline.
 - c. Actively participate in the program which includes, but is not limited to, submitting requested documentation within specified timeframes, actively seeking alternate City positions, and enrolling in E-notify for City employment opportunities.

- d. Notify the DER of any change in medical condition, and provide updated medical documentation within five (5) business days of the change.
4. Notify the DER of other employment attained, desire to withdraw from the DEPP, or any other changes that may affect his or her DEPP eligibility.

DEPARTMENT OF EMPLOYEE RELATIONS (DER) RESPONSIBILITIES:

1. Process an eligible employee's DEPP application. Clarify any questions related to the employee's qualification and medical restrictions.
2. Make an eligibility determination and notify the employee of the decision (send copy to Department).
3. Review current list of citywide vacancies to determine if there is a lateral or lower level position that the employee is objectively qualified for. Attach a dated list of the vacant positions reviewed to the file.
4. Notify employee that s/he shares responsibility to identify alternate City positions and assist him/her in enrolling in E-notify for City employment announcements.
5. Continue monitoring citywide vacancies while the employee is enrolled in the DEPP.
6. Coordinate with Workers' Compensation regarding employees that are in the DEPP due to a work-related injury.
7. Maintain contact with the employee throughout their participation in the DEPP.
8. Notify the referring department of action taken including acceptance of the referral, notification of when an employee is not responding to communications from the DER DEPP Manager and the employee's completion of the DEPP.
9. Notify employee when his or her DEPP eligibility ends.
10. Administer and maintain records of all DEPP activity from the referral of an employee through the employee's completion of the DEPP.