

**MTA New York City Transit
Policy/Instruction**

Subject	Classification:	Issued:	Number:
Restricted Work	Executive Vice-President	09/11/98	4.20.2

1.0 Policy:

The New York City Transit Authority's policy is to make efforts to accommodate the medical or physical limitations of our employees, provided the assigned work is not a threat to safety, meets budgetary requirements, is in accordance with civil service law, labor agreements, applicable laws, rules and regulations. The Authority retains the discretion to reassign or reclassify employees, who are medically unfit to perform the essential duties of their current assigned work due to accident or illness, to other work for which they are medically able to perform the duties and responsibilities. Medical evaluations and restricted work assignments, as in all other employment activities, shall be processed without regard to employee's age, color, marital status, race, national origin, religion, sex, veteran status, sexual orientation or without improper discrimination on disability. This policy instruction is not a contract of employment and may be changed when deemed feasible by management.

2.0 Administration:

The Office of Human Resources is responsible for administering this policy instruction, coordinate the reclassification of medically restricted employees to budgeted positions within the Authority, and monitor and report on the restricted work population. This Policy/Instruction will be maintained in the Human Resources Section of the Policy Instruction Manual.

3.0 Purpose:

The purpose of this Policy/Instruction is to set forth the procedures for evaluating employees who are unable to perform the essential duties of their current titles due to an injury or illness, with or without reasonable accommodation. These procedures will enable MTA New York City Transit to properly utilize such employees while complying with applicable laws, policies and contractual agreements.

This Policy/Instruction applies to employees of the New York City Transit Authority (TA) and the Manhattan and Bronx Surface Transit Operating Authority (MaBSTOA).

4.0 Scope:

This Policy/Instruction shall apply to all Authority employees.

5.0 Definitions:

5.1 Budgeted Work

A position that is authorized in the Authority's approved budget.

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5.0 Definitions (Continued):

5.11 Reclassification

A process in which a restricted work employee is made eligible for a budgeted position and his/her title is changed to a job title where he/she can perform the essential duties and functions of the new position.

5.12 Restricted Work

An employee status other than full work due to restrictions resulting from a medical condition.

5.13 Service-Connected Injury or Illness

An injury or illness sustained by an employee in the course of employment as defined by Workers' Compensation Law. Within the Authority, such injuries or illnesses are referred to as "injuries on duty" or "IODs".

5.14 Temporary Restriction

A classification given to an employee when an Authority designated physician expects the employee's medical restriction to be removed.

6.0 General Policy and Procedures:

6.1 This Policy/Instruction is to be administered in full compliance with and adherence to:

- a. the provisions of applicable labor agreements; and
- b. the provisions of applicable laws, rules and regulations regarding restricted work assignments and appointments to reclassified titles, consistent with the Reasonable Accommodations Policy/Instruction inter alia.

6.2 An employee who disagrees with a medical determination of an Authority designated physician may dispute the determination. To do so, the employee is required to submit medical documentation in the form prescribed by the Authority. Submission of medical conclusions without documentation of specific medical findings and test results, as applicable, is not acceptable and does not establish a medical dispute. Medical disputes will be resolved in accordance with applicable collective bargaining agreements or Authority policy. If no medical dispute is established and the employee fails or refuses to report for work as directed, the employee will be subject to disciplinary action, up to and including termination.

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8.0 Restricted Work Assignments (Continued):

8.2 When an employee is deemed by an Authority designated physician to have a temporary restriction which will be resolved within 14 calendar days, only in this instance may he/she be assigned unbudgeted and productive work for that period of time at the discretion of his/her division, provided that such work is consistent with the restrictions specified in the forms provided by an Authority designated physician. Only employees with service-connected injuries or illnesses shall be eligible for such unbudgeted work assignments.

8.3 Employees who are injured on duty and have been identified as Restricted Duty Temporary, No Work Available may be offered non-budgeted assignments for up to 90 calendar days. Recommendations for such assignments are to come solely from the case management program of the Workers' Compensation Division of the Law Department. The operating department will determine if and when such a recommended assignment will be implemented.

9.0 Reclassification for Employees with Permanent or Temporary Restrictions:

9.1 An employee may be eligible for reclassification if he/she is:

- a. deemed to have a permanent restriction and is in a "No Work Available" status;
- b. a TA employee, or MaBSTOA employee not represented by TWU, with a temporary restriction and no work is available for one cumulative year for a service connected injury or one continuous year for a non IOD injury.
- c. a MaBSTOA employee represented by TWU who has been classified as no work temporary or no work is available to him/her for one continuous year.
- d. a MaBSTOA employee represented by TWU who cannot perform work in his/her title due to an injury from assault as defined in collective bargaining agreements with such term defined for a period of one continuous year.

Employee found eligible for reclassification to budgeted work in another title will be placed on a waiting/preference list, to await an available position, for a period of up to six months. The waiting list will be maintained by the Employment Services Division. Reclassifications of TA employees shall be subject to approval by the Director of Department of Citywide Administrative Services.

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10.0 No Work or No Work Available (Continued):

- b. MaBSTOA employees represented by TWU will be given notice of intent to terminate where it is anticipated that they will be absent for two continuous years after the last day worked.
- c. MaBSTOA employees represented by the TWU who are victims of on-duty assault as defined by their collective bargaining agreement, may be subject to leave, termination or retirement, as specified in the relevant collective bargaining agreement.

10.2 Non-Service Connected Injuries With Temporary Restrictions

Employees deemed to have non IOD, with temporary restrictions may be placed on leave. If placed on leave they may charge this leave to accrued sick leave or, upon request, utilize their annual leave or compensatory time if available. Additionally:

- a. TA employees, and MaBSTOA employees not represented by TWU, shall be given notice of intent to terminate where it is anticipated that they will be absent for one continuous year.
- b. MaBSTOA employees represented by TWU shall be given notice of intent to terminate where it is anticipated that they will be absent for two continuous years after the last day worked.

10.3 Permanent Injury/Illness and Restrictions

- a. Employees with permanent restrictions who cannot be reassigned within title, shall be offered the opportunity for reclassification to alternate job titles pursuant to Section 9.1 of this policy.
- b. For all TA employees, and MaBSTOA employees not represented by TWU, who are deemed "Permanent No Work" resulting from service connected injuries, the process of retirement, separation from service and/or termination will commence immediately.

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11.0 Reinstatement:

11.1 TA Employees and MaBSTOA Employees Represented by TWU

An employee who has been terminated will be given the right to seek reinstatement in accordance with the applicable provisions of the New York State Civil Service Law, or the applicable collective bargaining agreement.

11.2 MaBSTOA Employees Not Represented by TWU

MaBSTOA, in its sole discretion may consider the application for reinstatement of a former employee provided that he/she is medically and otherwise qualified to return to work.

12.0 Responsibilities:

12.1 Human Resources

- a. The Occupational Health Services Division (OHS) will monitor and report the restricted work population. Distribute regularly scheduled and ad hoc reports, and statistical analyses of the restricted work population, as required.
- b. OHS will maintain a restricted work database, all necessary forms and notices.
- c. OHS will coordinate the resolution of restricted work issues and problems.
- d. OHS will arrange for periodic audits of restricted work assignments to ensure that, where applicable, budgeted positions are assigned.
- e. Authority designated physicians shall examine employees to determine the nature and extent of their medical restrictions and classify their determinations as follows:
 1. Full Work
 2. Restricted Work Temporary
 3. Restricted Work Permanent
 4. No Work Temporary
 5. No Work Permanent
- f. OHS will provide lists of employees who miss their medical appointments to the appropriate departments/divisions.

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- j. The Office of Management and Budget will provide a map of budgeted jobs to Occupational Health Services for use in data reconciliation.
- k. The NYCT Audit Division of MTA Audit Services will conduct audits, in accordance with its audit plan, to ensure employees are working in title and within budgeted positions. It will also periodically audit for compliance with this Policy/Instruction.
- l. The Law Department will ensure compliance with Workers' Compensation Law, the Americans with Disabilities Act and/or other regulations regarding restricted work employees.
- m. The Workers' Compensation Division of the Law Department will monitor, track and report on all aspects of the 90 day program cited in 8.3.
- n. The Office of Labor Relations will advise on all disciplinary and contractual issues regarding restricted work.
- o. Each department will assign a liaison to coordinate its restricted work population and ensure adherence to the Restricted Work Policy/Instruction.

Approved:


Lawrence G. Reuter 4-10-98
President **Date**

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