

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: General Administration

NUMBER: 01.C.10

AREA: Risk Management

**SUBJECT: Return-to-Work Program
On-the-Job Injuries**

1. PURPOSE

This policy encourages employees to return to work following a work-related injury or illness. If an employee is able to work, but is unable to return to his or her regular duties, this policy is designed to provide methods by which the employee may request to return to work in a modified or alternative assignment.

2. POLICY STATEMENT

The University of Houston System provides a return-to-work program for work-related injuries or illnesses as the means to return employees to meaningful, productive employment following injury or illness. To provide the highest level of quality service to the citizens of Texas, it is necessary for every employee of the System to be available for work, ready, and capable of performing the duties and responsibilities for which the employee was hired.

3. POLICY PROVISIONS

- 3.1. The return-to-work program provides opportunities for any System employee covered by workers' compensation insurance who sustains a compensable injury or illness during the course and scope of employment, to return to work at full duty.

If the employee is not physically capable of returning to full duty, the return-to-work program provides opportunities, for offering the employee to perform a temporary assignment in which the employee's regular position is modified to accommodate the employee's physical capacities, or to perform a transitional assignment with alternate duties. Assignment of any employee to a transitional position or modified regular position in accordance with the return-to-work program, including determination of the pay rate for the transitional position, requires the approval of the component university human resources department or designee. In the case of a faculty member, the human resources department will work with the component university's Chief Academic Officer or designee.

- 3.2. This return-to-work program shall not be construed as recognition by the System, its management, or its employees that any employee who participates in the program has a disability as defined by the [Americans with Disabilities Act of 1990](#). If an employee sustains an injury or illness resulting in a disability under the Americans with Disabilities Act, it is the employee's responsibility to inform his or her supervisor or a person in a responsible management position when a disability under the Americans with Disabilities Act exists and that a reasonable accommodation is necessary to perform the essential functions of his or her job.
- 3.3. Each component university will develop specific procedures to guide employees regarding the return-to-work program. Procedures will address applications for return-to-work documentation requirements, review, and approval guidelines for applicable administrators. Each component university's procedures will include, at a minimum, review and approval by the component university's human resources department in consultation with the component university risk management administrator.
- 3.4. Each component university will designate a return-to-work coordinator.
- 3.5. The System complies with the [Americans with Disabilities Act of 1990](#) which prohibits discrimination against qualified individuals with disabilities. Nothing in this policy shall be used as the basis for illegal discrimination against any individual or group.
- 3.6. The System complies with the [Family and Medical Leave of Absence \(FMLA\) Act of 1993](#). The System policy on FMLA is detailed in System Administrative Memorandum [02.D.06](#).
- 3.7. It is a violation of the return-to-work policy, procedures, and state or federal law for any employee, supervisor, or manager of the System to discharge or in any other manner discriminate against an employee of this agency because the employee:
 - Files a workers' compensation claim in good faith;
 - Hires a lawyer to represent the employee in a workers' compensation claim;
 - Institutes or causes to be instituted in good faith a proceeding under the [Texas Workers' Compensation Act](#); or
 - Testifies or is about to testify in a proceeding under the [Texas Workers' Compensation Act](#).
4. SPECIAL ASSIGNMENTS
 - 4.1. If an employee is unable to return to regular duties, the employee or component university may request a special assignment as follows:

- a. Assignment to a regular position with temporarily modified duties;
 - b. Temporary reassignment to a transitional position with duties which the employee is able to perform for a maximum of six months;
 - c. Re-assignment to another position with duties which the employee is able to perform; or
 - d. Restructuring of the employee's regular position with modified duties.
- 4.2. The component university will consider the employee's or supervisor's request for return to work in a special assignment according to the following criteria:
- a. Assignment to the employee's regular position with temporarily modified duties is designed for an employee who is temporarily unable to function at full capacity in the regular position due to work-related illness or injury, but who is expected to return to regular duties within six months. Such duty modification requires the certification of the employee's treating physician. Once the physician certifies that an employee can return to work, the supervisor must return the employee to work and adhere to the employee's medical restrictions.
 - b. Return to work to a transitional position with different duties is designed for an employee who is temporarily unable to function at full capacity in the regular position due to work-related illness or injury, but who is expected to return to regular duties within six months. The employee must possess the knowledge, skills, and abilities required to function in the transitional position. Such temporary reassignment is to be used only when temporarily placing the employee in the transitional position would provide mutual benefits to the component university and the employee, and when no current employee would be displaced by such reassignment. Such temporary reassignment requires the certification of the employee's treating physician. Once the physician certifies that an employee can return to work, the supervisor must return the employee to work and adhere to the employee's medical restrictions.
- Transitional assignments require advance approval of the appropriate component university human resource department. If a transitional assignment warrants a pay change for the affected employee, the university human resources department is responsible for determining the correct pay rate for the transitional assignment. In the case of a faculty member, the human resources department will work with the component university Chief Academic Officer or designee.

The employee's salary in the transitional assignment shall be paid by the employee's primary department or division. The maximum duration of a transitional assignment is six months. The primary department or division is responsible for documenting the transitional assignment in accordance with the component university specifications.

- c. Return to work to a vacant regular position with different duties is designed for an employee who is unable to function at full capacity in his or her regular position due to work-related illness or injury, and who possesses the knowledge, skills, and abilities required to function in the vacant position. Such reassignment is to be used only when placing the employee in the vacant position would provide mutual benefits to the component university and the employee, and when no current employee would be displaced by such reassignment. Such reassignment requires the certification of the employee's treating physician. Once the physician certifies that an employee can return to work, the supervisor must return the employee to work and adhere to the employee's medical restrictions.
- d. Return to work to a restructured regular position with modified duties is designed for an employee who is permanently unable to function at full capacity in his or her regular position due to work-related illness or injury. Such permanent modification of duties requires the certification of the employee's treating physician. Once the physician certifies that an employee can return to work, the supervisor must return the employee to work and adhere to the employee's medical restrictions.

- 4.3. An employee who returns to work in a special assignment may be assigned to another work site within the component university, depending upon the availability of vacant positions or the limitations or abilities of the employee.
- 4.4. An employee will not be placed into a transitional or regular position if such an assignment would place the employee or others in danger.
- 4.5. An employee will not be placed into a position if such assignment would displace another current employee.
- 4.6. An employee in a special, transitional assignment is responsible for providing periodic reports from his/her health care provider during the period of the temporary assignment.

5. BONA FIDE OFFER OF EMPLOYMENT

- 5.1. Assignment to any of the types of positions described in Section 4 will be documented in a "bona fide offer of employment" letter to the employee. The bona fide offer of employment letter shall include the following information:

- The type of position offered and the specific duties.
 - A statement that the agency is aware of and will abide by any physical limitations under which the treating doctor has authorized the employee to return to work.
 - The maximum physical job requirements.
 - The wage rate of the job.
 - The assignment location.
 - The expected assignment duration.
 - The consequences of not accepting the assignment, in terms of duration and any income benefits payable under the [Texas Workers' Compensation Act](#), and any other relevant leave provisions. The letter is to state that the component university cannot guarantee that a position will be available should the employee fail to accept the assignment.
 - The contact person if the employee has questions regarding the assignment, job modifications, or other relevant leave provisions.
- 5.2. The employee may accept or reject this bona fide offer of employment. The employee should be informed that rejection of the bona fide offer of employment will result in workers' compensation temporary income benefits (if applicable) being stopped by the Workers' Compensation Division as the state's insurance carrier. If the employee accepts the bona fide offer of employment, then the employee shall perform the duties of the position for the term of the assignment or until the employee is able to return to full duty, whichever is sooner in the case of a temporary assignment. If the employee rejects the bona fide offer of employment, then the employee remains off work until the end of any approved leave period or until the employee is certified by the health care provider to return to full duty.
- 5.3. In the case of a temporary assignment, if the employee is unable to return to full duty by the end of the assignment period and/or by the end of the employee's approved leave period, then the employee's continued employment with the component university shall be considered based upon the business necessity of filling the employee's position.

6. REVIEW AND RESPONSIBILITY

Responsible Party: Associate Vice Chancellor for Plant Operations

Review: Even numbered years on or before May 1

7. APPROVAL

Approved: Jim McShan
Interim Vice Chancellor for Administration and Finance

Renu Khator
Chancellor

Date: April 7, 2008

8. INDEXING TERMS

Human resources
On-the-job injuries
Return to work
Workers' compensation