

Memo to: All UH-Downtown/PS Holders

UH Downtown/PS 02.A.18

From: William Flores, President

Issue No. 3

Effective Date: 07/09/2015

Subject: Return to Work Program Policy

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## **1. PURPOSE**

This PS describes the University of Houston-Downtown's (UHD) return-to-work program for employees who have sustained injuries or illnesses on the job.

## **2. DEFINITIONS**

There are no definitions associated with this policy.

## **3. POLICY**

- 3.1 The University's return-to-work program requires that an employee be able to return to regular duty and perform all of the major and essential functions of their job. In specific instances when a faculty member is released to return to work but because of timing is not able to go into the classroom, there may be other options available to the faculty member, which will require the approval of their department chair, dean and Senior Vice President for Academic and Student Affairs and Provost.
- 3.2 Employment Services and Operations (ESO) will administer the University's return-to-work program in consultation with the Environmental Health and Safety (EHS) Department and must approve all return-to-work decisions made in accordance with this policy.
  - 3.2.1 The Director of Benefits and Compensation or designee has been designated as the University's return-to-work coordinator.
  - 3.2.2 In the case of a faculty member, ESO will work with the Senior Vice President for Academic and Student Affairs and Provost or designee.
  - 3.2.3 The return-to-work program provides opportunities for employees who sustain a compensable injury during the course and scope of employment to return to work at full/modified duty. If the employee is not physically capable of returning to full duty, the return-to-work program provides opportunities, when available, for 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 a temporary assignment with alternate duties. Assignment of any employee to a temporary position or modified regular position in accordance with the return-to-work program requires the approval of the employee's supervisor, and the Benefits and EHS departments.

- 3.2.4 If the employee is not satisfied with ESO's decision, then the employee may appeal to the Vice President for Employment Services and Operations (VPESO). All appeals are reviewed on a case-by-case basis, and the University of Houston System Office of General Counsel may be consulted as needed. After a thorough review of all issues, the VPESO will make a final ruling on ESO's return-to-work decision.
- 3.3 The return-to-work program shall not be construed as recognition by the University that any employee who participates in the return to-work program has a disability as defined by [The Americans with Disabilities Act \(ADA\) of 1990](#) and [The Americans with Disabilities Act Amendments Act of 2008](#). If the employee sustains an injury or illness that results in a disability under the ADA, it is the employee's responsibility to inform his or her supervisor when a disability exists and that a reasonable accommodation is necessary to perform the essential functions of the job.
- 3.3.1 The University complies with the ADA of 1990 and the ADA Amendments Act of 2008, which prohibits discrimination against qualified individuals with disabilities. Nothing in this PS shall be used as the basis for illegal discrimination against any individual or group.
- 3.3.2 In addition, the University complies with the [Family and Medical Leave Act \(FMLA\) of 1993](#). For additional information, please refer to [PS 02.A.11, Family and Medical Leave Policy](#).
- 3.4 No employee of the University will discharge or in any other manner discriminate against another employee of this institution because the employee:
- (a) files a workers' compensation claim in good faith
  - (b) hires an attorney to represent the employee in a workers' compensation claim
  - (c) institutes or causes to be instituted in good faith a proceeding under the [Texas Workers' Compensation Act](#)
  - (d) testifies or is about to testify in a proceeding under the Texas Workers' Compensation Act.

## 4. PROCEDURES

- 4.1 If an employee is unable to return to regular duties, the employee or the University may request a temporary assignment. Performance of a temporary job assignment is intended to return an injured employee to work at less than his or her full duties when a compensable injury or serious medical condition resulting from a work-related injury or illness prevents the employee from working full duty. Modified duty and any other temporary assignments may be available for six months only. Once the employee's health care provider certifies that the employee can return to work and can perform the essential functions of the job, the supervisor must adhere to the employee's medical/work

restrictions. The University will consider an employee's or supervisor's request for return to work in a temporary assignment on a case-by-case basis. An employee in a temporary assignment is responsible for providing an updated work status report after each date of treatment from his/her health care provider during the period of the assignment to the Benefits Department.

4.2 If modified duty or temporary assignment is approved by the Benefits Department, the assignment 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:

4.2.1 A statement that the University is aware of and will abide by any physical limitations under which the treating health care provider has authorized the employee to return to work and will provide training if necessary;

4.2.2 Description of the maximum physical job requirements;

4.2.3 The wage rate of the job;

4.2.4 The assignment location;

4.2.5 The expected assignment duration;

4.2.6 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;

4.2.7 The contact person if the employee has questions regarding the assignment, job modifications, or other relevant leave provisions, and;

4.2.8 No guarantee that a position will be available should the employee fail to accept the assignment.

4.3 The employee may accept or reject the 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, will be stopped by the State Office of Risk Management (SORM). If the employee accepts the bona fide offer of employment, then the employee shall perform the duties of the position for the term of assignment or until the employee is able to return to full duty, whichever is sooner. 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, whichever occurs sooner. If the employee rejects the bona fide offer of employment and the approved leave period has expired and the employee is unable to return to his or her regular position, then the employee's continued employment with the University shall be considered based upon business necessity and all applicable laws.

4.4 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 the approved leave period has expired then the employee's continued employment with the University shall be considered based upon the business necessity and all applicable laws.

## **5. EXHIBITS**

There are no exhibits associated with this policy.

## **6. REVIEW PROCESS**

Responsible Party (Reviewer): Vice President for Employment Services and Operations

Review: Every three years on or before November 1<sup>st</sup>.

Signed original on file in Employment Services and Operations.

## **7. POLICY HISTORY**

Issue #1: 08/04/99

Issue #2: 11/05/10

## **8. REFERENCES**

[SAM 01.C.10, Return-to-Work Program On-the-Job Injuries](#)

[The Americans with Disabilities Act \(ADA\) of 1990](#)

[The Americans with Disabilities Act Amendments Act of 2008](#)

[Family and Medical Leave Act \(FMLA\) of 1993](#)

[PS 02.A.11, Family and Medical Leave Policy](#)

[Texas Workers' Compensation Act](#)