

Memo to: All UH-Downtown/PS Holders UH Downtown/PS 02.A.18  
Issue No. 4  
From: Dr. Loren J. Blanchard, President Effective Date: 04/20/2023  
Page 1 of 5  
Subject: Return to Work Policy for On-the-Job Injuries

## 1. PURPOSE

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

## 2. DEFINITIONS

- 2.1 **Modified Duty:** Performance of all essential functions but only a portion of the non-essential functions and tasks of the regular job duties for which the employee is employed. Modified duty allows the employee to return to current employment in their regular job and perform those duties and tasks within the employee's capabilities, given the restrictions to the duty imposed by the health care provider.
- 2.2 **Alternate Duty:** Performance of the essential functions of a job or position other than the position for which the employee is employed. Alternate duty allows the employee to temporarily perform other duties and tasks within the restrictions of the duty imposed by the health care provider. Such alternate duty may be physically located in the same department or another department. Alternate duty is a temporary arrangement until the injured employee can resume the full activities of the regular job.

## 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. If an employee can work but cannot return to their regular duties, this document provides methods by which the employee may request to return to work in a modified or alternative assignment.
- 3.2 The Office of Human Resources (HR) administers the University's return-to-work program and must approve all return-to-work decisions made in accordance with this policy.
  - 3.2.1 The Benefits staff have been designated as the University's return-to-work coordinators.
  - 3.2.2 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.

- 3.2.3 HR works with the employee's supervisor in addressing the employee's needs as well as the department's needs. In conjunction, both recommend and approve the assignment of employees placed on modified duty by the injured employee's healthcare provider.
  - 3.2.4 If the employee is not satisfied with HR's decision, then the employee may appeal to the Vice President for Human Resources (VPHR). 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 thoroughly reviewing all facts, the VPHR will make a final ruling on the return-to-work decision rendered by the Benefits team.
- 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 and HR 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 or hires an attorney to represent the employee in a workers' compensation claim, or;
  - (b) 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.
- 3.5 The University will consider an employee's or supervisor's request for return to work in a temporary assignment or light duty on a case-by-case basis. If there is no temporary assignment or light duty available, employees will remain on a leave of absence until they return to full duty.

- 3.6 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 the Senior Vice President for Academic Affairs and Provost.

#### 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. 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. Two types of temporary assignments are modified duty and alternate duty.
- 4.1.1 Temporary assignments are available for six months only. Once the employee's healthcare provider certifies that the employee can return to work, the supervisor must adhere to the employee's medical/work restrictions.
- 4.1.2 Supervisors/managers are responsible for providing the return-to-work coordinator with a copy of the employee's modified position description.
- 4.1.3 An employee who returns to work on a temporary assignment may be assigned to another work site, depending upon the availability of vacant positions and the limitations or abilities of the employee.
- 4.1.4 An employee participating in the return-to-work program will not be placed into a position if such an assignment would displace another current employee.
- 4.1.5 An employee in a temporary assignment is responsible for providing an updated work status report after each date of treatment from the healthcare provider during the period of the assignment to the Benefits Department.
- 4.2 If a 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 a description of the maximum physical job requirements;
- 4.2.3 the wage rate of the job, the assignment location and expected duration;

- 4.2.4 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. There is no guarantee that a position will be available should the employee fail to accept the assignment, and;
  - 4.2.5 the contact person if the employee has questions regarding the assignment, job modifications, or other relevant leave provisions.
- 4.3 The employee may accept or reject the bona fide offer of employment. The employee shall be informed that rejection of the bona fide offer of employment will result in workers' compensation temporary income benefits, if applicable, be discontinued 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. REVIEW PROCESS**

Responsible Party (Reviewer): Vice President for Human Resources

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

Signed original on file in the Office of Human Resources.

## **6. POLICY HISTORY**

Issue #1: 08/04/99

Issue #2: 11/05/10

Issue #3: 09/06/19

## **7. 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](#)