

University of Houston Clear Lake

MEMORANDUM OF ADMINISTRATIVE POLICY

SECTION: Human Resources
AREA: Fringe Benefits

Number: MAP 02.C.07

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

MAP 02.C.07

I. PURPOSE AND SCOPE

This MAP describes the University of Houston-Clear Lake's (UHCL) return-to-work program for employees who have sustained work-related injuries or illnesses.

II. POLICY INFORMATION

2.1 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.

2.2 The Office of Human Resources, in consultation with the Environmental Health and Safety Department, administers the University's return-to-work program and must approve all return-to-work decisions made in accordance with this policy.

2.2.1 The benefits staff have been designated as the University's return-to-work coordinators.

2.2.2 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.

2.2.3 The Office of Human Resources 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.

2.3 The return-to-work program shall not be interpreted 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 ADAAA, it is the employee's responsibility to inform his or her supervisor and the Office of Human Resources when a disability exists and that a reasonable accommodation is necessary to perform the essential functions of the job.

- 2.3.1 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 MAP shall be used as the basis for illegal discrimination against any individual or group.
- 2.3.2 In addition, the University complies with the [Family and Medical Leave Act \(FMLA\) of 1993](#). For additional information, please refer to [UHCL MAP 02.D.06 Family and Medical Leave](#).
- 2.4 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](#)
- 2.5 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 within the same, or different department, employees will remain on a leave of absence until they return to full duty.
- 2.6 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.

III. DEFINITIONS

- 3.1 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.
- 3.2 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.

IV. PROCEDURES

- 4.1 If an employee is unable to return to regular duties, the employee or the University may request a temporary assignment. The request must include the most recent Texas Workers' Compensation Work Status Report (DWC 73), completed by the health care provider. 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 assignments are approved by UHCL. These are modified duty and alternate duty. Definitions of these assignments can be found in Section 3.
 - 4.1.1 Temporary assignments, both modified and alternate, 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 Office of Human Resources.
- 4.2 If a modified or alternate duty temporary assignment is approved by the Office of Human Resources, 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 evaluated based upon business necessity and all applicable laws.

- 4.4 In the case of accepting 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.

V. REVIEW AND RESPONSIBILITIES

Responsible Party: Assoc VP, Human Resources/Chief Human Resources Officer
Review: Every 3 years

VI. APPROVAL

Mark Denney
Vice President for Administration and Finance

Dr. Richard Walker
President

Date of President's Approval: November 9, 2023

VII. REVISION LOG

Revision Number	Approval Date	Description Change
1	08/01/2023	Initial Version