

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: General Administration

NUMBER: 01.C.10

AREA: Risk Management

SUBJECT: Return-to-Work Program for 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 their regular duties, this policy is designed to provide methods by which the employee may 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 a work-related injury or illness. To provide the highest level of quality service to the University of Houston System community, 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 the workers' compensation program who sustains a compensable injury or illness during the course and scope of employment, to return to work at full or temporary 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 departmental supervisor, transitional departmental supervisor (if applicable) and the university claims coordinator.

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 their 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 their job.

- 3.3. Each 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 university's procedures will include, at a minimum, review and approval by the university's human resources department in consultation with the university risk manager or designee.
 - 3.4. Each university will designate a return-to-work coordinator. It may be advantageous for the return-to-work coordinator to also perform the duties of the worker's compensation claims 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 Act \(FMLA\) 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. TEMPORARY ASSIGNMENTS
- 4.1. If an employee is unable to return to regular duties, the employee or university may request a temporary assignment. Performance of a temporary job assignment is intended to return an injured employee to work at less than their full duties when a compensable injury or serious medical condition prevents the employee

from working full duty. Two types of temporary assignments are modified duty and alternate duty.

- 4.2. The university will consider the employee's return-to-work in a temporary assignment according to the following criteria:
 - 4.2.1. Modified Duty: Performance of all of the 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 that are within the capabilities of the employee, given the restrictions to duty imposed by the health care provider. Modified duty is a temporary arrangement until the injured employee can resume full duty.
 - 4.2.2. 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 that are within the restrictions to duty imposed by the health care provider. Such alternate duty may be physically located in the same department or in some other department. Alternate duty is a temporary arrangement until the injured employee can resume the full activities of his/her regular job.
- 4.3. The modified and alternate duty assignments are available for six months only. Once the employee's health care provider certifies that the employee can return to work, the supervisor must adhere to the employee's medical/work restrictions.
- 4.4. Supervisors/managers are responsible for providing the return-to-work coordinator with a copy of the employee's position description, which should indicate the physical requirements and the essential and non-essential functions of the position.
- 4.5. An employee who returns to work in a temporary assignment may be assigned to another work site within the university, depending upon the availability of vacant positions or the limitations or abilities of the employee.
- 4.6. An employee will not be placed into a temporary assignment/position if such assignment would displace another current employee.
- 4.7. An employee in a temporary 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 health care provider has authorized the employee to return to work.
- Description of the maximum physical job requirements.
- The wage rate of the job.
- The assignment location.
- The expected assignment duration.
- That training will be provided, if necessary, for the position being offered.
- 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 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 or reduced by the State Office of Risk Management who administers the workers’ compensation program. 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 university shall be considered based upon the business necessity of filling the employee’s position and all applicable laws.

