

Memo to: All UH-Downtown/PS Holders

UH Downtown/PS 02.A.18

From: Max Castillo, President

Issue No. 1

Effective Date: 08/04/99

Page 1 of 2

Subject: Return to Work Policy

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. POLICY/PROCEDURES

2.1 The University's return-to-work program provides opportunities, when available, for employees covered by workers' compensation insurance to return to meaningful, productive employment following an injury or illness sustained on the job. If an employee is able to work but is unable to return to his or her regular duties, this PS specifies the possible options available for the employee to return to work in a modified or alternative assignment.

2.2 The Human Resources Department will administer the University's return-to-work program in consultation with the Chief of Police and Director of Safety and must approve all return-to-work decisions made in accordance with this policy.

2.2.1 The Benefits Manager has been designated as the University's return-to-work coordinator.

2.2.2 In the case of a faculty member, the Human Resources Department will work with the Vice President for Academic Affairs and Provost or designee.

2.2.3 If the employee is not satisfied with the decision of the Human Resources Department, then the employee may appeal to the Vice President for Administration. The decision of the Vice President for Administration will be final.

2.3 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. 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.

2.3.1 The University complies with the ADA of 1990, 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.

2.3.2 The University complies with the Family and Medical Leave Act (FMLA) of 1993. See PS 02.A.11.

2.4 No employee of the University will discharge or in any other manner discriminate against another employee of this agency 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;

2.5 If an employee is unable to return to regular duties, the employee may request one of four special assignments, and the University will evaluate the request according to specific criteria.

2.6 *Assignment to a regular position with temporarily modified duties.* 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.

2.7 Temporary reassignment to a transitional position with duties that the employee is able to perform for a maximum of six months. Assignment 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 injury or illness, but who is expected to return to regular duties within six months. The transitional position does not have to be in the department in which the employee is currently placed. The following criteria must be satisfied:

2.7.1 The employee must possess the knowledge, skills, and abilities required to function in the transitional position.

2.7.2 The transitional reassignment is to be used only when temporarily placing the employee in the transitional position would provide mutual benefits to the University and the employee, and when no current employee would be displaced by the reassignment.

2.7.3 The transitional reassignment requires the approval of the supervisor of the temporary assignment, the supervisor of the regular position, and appropriate university administrators.

2.7.4 Transitional assignments require the advance approval of the Human Resources Department.

2.7.5 If a transitional assignment warrants a pay rate change for the affected employee, the Human Resources Department is responsible for determining the appropriate pay rate for the transitional assignment.

2.7.6 The employee's salary in the transitional assignment will be paid by the employee's home department or division.

2.7.7 The maximum duration of a transitional assignment is six months.

2.7.8 The home department or division is responsible for documenting the transitional assignment in accordance with University policy.

2.8 *Permanent reassignment to another position with duties that the employee is able to perform.* Assignment to a vacant regular position with different 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 injury or illness, and who possesses the knowledge, skills, and abilities required to function in the vacant position.

2.8.1 A permanent reassignment is to be used only where permanently placing the employee in a vacant position would provide mutual benefits to the University and the employee, and where no current employee would be displaced by this reassignment.

2.8.2 A permanent reassignment requires the approval of the supervisor of the new position and appropriate University administrators.

2.9 *Permanent restructuring of the employee's regular position with permanently modified duties.* Assignment 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. This permanent modification of duties requires the approval of the supervisor and appropriate University administrators.

2.10 All special assignments require the certification of the employee's treating physician and the approval of the supervisor and appropriate University administrators.

2.11 An employee who returns to work in a special assignment may be assigned to another work site within the University, depending on the availability of vacant positions or the limitations or abilities of the employee.

2.12 An employee will not be placed in a special assignment if the assignment would place the employee or others in danger.

2.13 An employee will not be placed in a special assignment if the assignment would displace another current employee.

2.14 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.

2.15 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.

2.16 All special assignments will be documented in an offer of employment letter to the employee. The letter should include the following information:

2.16.1 the type of position offered and the specific duties to be performed;

2.16.2 a statement that the University is aware of and will abide by any physical limitations under which the treating physician has authorized the employee to return to work;

2.16.3 the maximum physical requirements of the job

2.16.4 the wage rate for the job;

2.16.5 the location of the assignment;

2.16.6 the expected duration of the assignment;

2.16.7 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.

2.16.8 a statement that the University cannot guarantee that a position will be available if the employee fails to accept the assignment.

2.16.9 the person to contact if the employee has questions regarding the assignment, job modifications, or other relevant leave provisions.

2.17 The employee may accept or reject the bona fide offer of employment.

2.17.1 The employee should be informed that rejection of the bona fide offer of employment may result in workers' compensation temporary income benefits (if applicable) being stopped by the Workers' Compensation Division as the state's insurance carrier.

2.17.2 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.

2.17.3 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.

3. REVIEW AND RESPONSIBILITIES

Responsible Party (Reviewer): Vice President for Administration

Review: As needed



President