

Handbook of Operating Procedures

RETURN TO WORK AFTER WORK-RELATED INJURY OR ILLNESS

A. Purpose

The purpose of this policy is to provide guidelines for The University of Texas Rio Grande Valley (UTRGV) to follow when arranging temporary modified duty for employees who have incurred work-related injuries or illnesses, and have been released by their treating doctor to restricted work activities.

B. Persons Affected

This policy applies to all UTRGV employees except those in positions for which student status is a condition of employment.

C. Definitions

1. Bona Fide Job Offer - written job offer for temporary modified duty that must be signed by the employee, supervisor, and WCI representative.
2. Temporary Modified Duty - temporary position to which an employee is assigned to when the employee is unable to return to the employee's regular position and job duties following a work-related injury or illness.
3. Treating Doctor - doctor primarily in charge of coordinating health care services for the injured or ill employee who determines the employee's ability to return to work and determines work restrictions that may be placed on the employee.
4. UTRGV- WCI - UT Rio Grande Valley-Workers' Compensation Insurance Program.

D. Policy

1. Return to Work Program - Workplace safety and injury prevention are of paramount importance to UTRGV. When workplace injuries or illnesses occur, UTRGV is committed to the safe return of employees back to work. The early return-to-work (RTW) program provides opportunities for an employee who is injured on the job to return to work at full duty. If the injured employee is not physically capable of returning to full duty, the program provides opportunities to perform his or her regular job with modifications or, when available, to perform alternate temporary work that meets the injured worker's physical capabilities.
2. Temporary Restriction - An employee who is temporarily restricted from performing regularly assigned job duties due to a work-related injury or illness and who is able to safely return to work, will be offered employment in accordance with the terms of this policy. In the absence of other legal or policy limitations, employees who are able to return to full or modified work duty but choose not to do so may be subject to termination.

3. *Americans with Disabilities Act* - This policy should not be construed as an acknowledgment that employees who are considered for modified duty are classified or perceived as a person with a disability as defined by the Americans with Disabilities Act of 1990, as amended.
4. The program will be administered by the Department of Environmental Health, Safety and Risk Management - Workers Compensation Insurance Program (UTRGV-WCI) in conjunction with the Office of Human Resources.

E. Procedure

1. *Required Documentation* - Before an employee who is restricted from performing regularly scheduled job duties due to temporary physical limitations caused by work-related injury or illness is offered a work assignment, a description of the job duties or work activities that the injured employee was required to perform at the time the employee sustained the injury will be provided to the treating doctor to determine whether the employee is able to perform the employee's job duties and if any physical restrictions exist. Modifications are based on the Work Status Report (DWC Form-73), which is completed by the doctor treating the work-related injury or illness to establish the extent and expected duration of job-related restrictions.
2. *Periodic Evaluations Required* - Employees working modified duty assignments shall be required to undergo periodic evaluations, not to exceed 30 days, by the treating doctor to assess any changes in restrictions. The results of these evaluations documented shall be reported in writing to the UTRGV-WCI program.
3. *Employee Requirement* - Employees must reasonably facilitate the successful delivery of requested documentation to UTRGV.
4. *Return to Work Offers* - Taking into consideration the information provided by the doctor, the employee's department, in consultation with the Office of Human Resources and the UTRGV- WCI program, shall determine if a temporary modified duty assignment will be offered. Only work that is considered productive and meaningful to UTRGV shall be considered.
5. *Work in Another Department* - If the employee's regular department is unable to reasonably accommodate the employee's work restrictions, a modified duty assignment may be considered in another department. For temporary assignments, the employee's regular department will be responsible for paying the employee's wages during the reassignment.
6. *Possible Adjustment of Compensation* - In some cases, there may not be an adjustment in the compensation of the employee that is placed in a modified duty position. However, the employee placed in a modified duty position will be paid a salary that is equivalent to the salary of other employees holding the same position.
7. *Work Agreement* - Once the decision to offer a temporary modified duty assignment is made, the employee will be issued a bona fide job offer, not to exceed 90 days, that complies with Title 28, *Texas Administrative Code*, Rule 129.6. A work agreement must be completed and signed by the employee, supervisor, and an Office of Human Resources representative.

The employee will be given up to five (5) business days to accept or refuse the RTW job offer. If no response is received within this timeframe, the employee will be considered to have declined the offer.

8. *Refusal of RTW Job Offer* – An employee may accept or refuse a RTW job offer. However, refusal may affect the employee’s continuation of employment. An employee may also be required to forfeit any workers’ compensation income benefits the employee is receiving, or may be eligible to receive in the future, if the employee refuses a temporary work assignment since the inability to obtain wages is no longer the result of the work-related injury or illness.
9. *Expectations While Working Modified Duty Assignments* - An employee performing any full or modified duties under this policy, is subject to the usual work performance standards of that job and of UTRGV. Employees are also subject to removal from modified duty or disciplinary action in accordance with applicable UTRGV policies.
10. *Compliance with Medical Instructions* - The employee is responsible for following medical instructions on and off the job.
11. *Performance of Assigned Work* - The employee must immediately report any difficulties with performing assigned work. The supervisor and employee will work to address the problem.
12. *Duration of Modified Duty* - An offer of modified duty may be made for any amount of time, not to exceed the limits described in this policy.
13. *Limits for Modified Duty* - An employee is limited to 90 days of modified duty work in any rolling 12-month period. If the employee is not able to return to the employee’s regularly-assigned position before the exhaustion of permitted days of modified duty, the employee may be subject to termination. In some cases, an employee exhausting his or her allotment of modified duty days may be eligible to remain employed pursuant to the terms of other UTRGV policies (e.g., HOP ADM 4-602, Annual Leave; HOP ADM 3-200, Accommodations for Individuals with Disabilities; HOP ADM 4-608, Family and Medical Leave Act).
14. *When Restrictions No Longer Apply* - If the employee’s treating doctor indicates in writing that restrictions no longer apply and that the employee may return to full duty, the temporary work assignment shall terminate immediately or upon the effective date the restrictions were removed, whichever is earlier. The employee will then be allowed and expected to return to his or her regular duties and classification. If the restrictions no longer apply and the employee is able to return to work, a full medical release from the employee’s treating physician is required to be provided to the Office of Human Resources prior to the employee’s return date.
15. *Exceeding of the Maximum Number of Days* - If at any time the doctor indicates in writing that the restrictions are expected to last beyond the employee’s maximum permitted days of modified duty, the employee’s offer of modified duty is subject to revocation and the employee may be subject to termination.
16. *After Expiration of Modified Duty Eligibility* - An employee with a work-related injury or illness who is terminated because the employee was not released to full duty by the

employee's treating doctor before the temporary modified duty work assignment expired, may qualify for income benefits under workers' compensation. The workers' compensation insurance carrier will determine whether the employee qualifies for these benefits.

F. Relevant Federal and/or State Statute(s), Board of Regents' Rule(s), UTS Policy(ies), and/or Coordinating Board Rule(s)

Texas Labor Code, Medical Review, Chapter 413, Section 413.021; Section 413.023; Section 413.024; Section 413.025

Title 28, Texas Administrative Code, Rule 129.6, Bona Fide Offers of Employment

The University of Texas System Board of Regents' Rules and Regulations, Rule 30201, Leave Policies

UTRGV HOP ADM 4-303, Discipline and Dismissal of Employees

UTRGV HOP ADM 3-200, Accommodations for Individuals with Disabilities

UTRGV HOP ADM 4-608, Family and Medical Leave

UTRGV HOP ADM 4-602, Authorized Leave

G. Dates Reviewed or Amended

Reviewed and amended (non-substantive: updated responsible executive) - May 9, 2022.