



# **Handbook of Operating Procedures**

**Section:** 7.6.11  
Originally Approved: 07/19/2004  
Last Amended: 02/06/2014  
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## **WORKERS' COMPENSATION MODIFIED DUTY/RETURN-TO-WORK PROGRAM**

### **A. Purpose**

The purpose of this policy is to establish a Workers' Compensation Modified Duty/ Return-to-Work program for employees of The University of Texas-Pan American (UTPA or University) in order to reduce lost workdays, increase employee morale and, in certain cases, reduce Workers' Compensation Insurance related expenses. This program facilitates the rehabilitation of employees to allow for a timely and safe return to work after being released by their treating doctor to restricted work activities, minimizing the loss of employee productivity, by placing the employee in a temporary assignment.

### **B. Persons Affected**

This policy applies to all employees of the University who suffer temporary disability from an on-the-job injury or occupational disease and receive Workers' Compensation Benefits.

### **C. Policy**

1. UTPA maintains a workplace environment that is committed to preserving the economic and physical well-being of employees by promoting their safe return to work after an on-the-job injury after the employee has been released by their treating doctor to restricted work activities.
2. The Department of Environmental Health and Safety (DEHS) administers a Workers' Compensation Modified Duty/Return-to-Work program.
3. This policy should not be construed as acknowledgment that employees who are considered for modified duty are necessarily classified or perceived as a person with a disability, as defined by the Americans with Disabilities Act of 1990, as amended.

### **D. Definitions**

1. *Bona Fide Offer*. A formal, written offer of light duty employment made by employer to an employee after a work-related injury, which must be signed by the employee, employer, supervisor and WCR representative.
2. *Description of Injured Employee's Employment Form*. This form is a description of the injured employee's job functions and duties, specific tasks, work activities and physical responsibilities at the time of injury. Within the Texas Department of Insurance Division of Workers' Compensation, this is referred to as DWC Form-74.



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3. *Employee.* Any person that is on the University's payroll.
4. *Full Duty Release.* A decision made by a treating doctor that an injured employee is able to return to work with no medical restrictions.
5. *Light Duty Assignment.* An assignment that allows an injured employee, who has not fully recovered, to gradually return to the workplace environment by performing modified or alternate duties. This is also referred to as "transitional duty."
  - a. *Modified Duties.* An injured employee's regular job, but changed to meet medical restrictions imposed by a treating doctor (i.e. modified work schedule, reduced hours, reduced duties, and sharing duties with others).
  - b. *Alternate Duties.* A temporary work assignment, different from the injured employee's regular job, which meets medical restrictions.
6. *Medical Restrictions.* The physical activities limited by a treating doctor related to a work-related injury. Also referred to as "work restrictions."
7. *Regular Job.* An employee's normal job prior to their work-related injury.
8. *Home Department.* The department that an employee was assigned to prior to a work related injury.
9. *Return-to-Work Program.* An employer's plan that encourages employees to return to work as soon as possible following a work-related injury. As part of this program, the employer attempts to find light duty work for the employee, which meets the treating doctor's restrictions.
10. *Supervisor.* A person who supervises workers or the work done by others.
11. *Treating doctor.* A doctor 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 restrictions that may be placed on the employee as they pertain to work activities.
12. *Work Status Report.* A form to be completed by a treating doctor fills that outlines an injured employee's medical restrictions and/or ability to work. Within the Texas



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Department of Insurance Division of Workers' Compensation, this is referred to as DWC Form-73.

13. *Workers' Compensation Representative (WCR)*. An individual who acts on behalf of insurer or insured employee. The WCR is employed by the UTPA Department of Environmental Health and Safety.

### **E. Responsibilities**

1. An employee must report any work related injury to their supervisor or DEHS and file a First Report of Injury within 30 calendar days of injury or symptoms.
2. Any supervisor that receives a report of injury from an employee must report the incident to DEHS within 7 calendar days after becoming aware of the injury.
3. A WCR must document the injury report and transmit it to the Texas Department of Insurance Division of Workers' Compensation.

### **F. Procedures**

The DEHS, in conjunction with Human Resources (HR), has established specific procedures to guide supervisors and employees through the program:

1. To be considered for the program, an injured employee and treating doctor must complete a Work Status Report (DWC Form-73), which will establish the extent and expected duration of the job-related restrictions. The employee must then submit the completed Work Status Report to the WCR.
2. The WCR will request, in writing, that the employee's department complete a Description of Injured Employee's Employment (DWC Form-74).
3. Once both forms are complete, the treating doctor, employee's supervisor and the WCR will evaluate both forms to determine whether the employee can be offered a light duty assignment.
4. If it is determined that the employee can perform a light duty assignment, the WCR and the employing department will determine if there is a valid assignment that the employee can perform. Only work that is considered productive and meaningful to UTPA will be considered. The determination will be based on the following criteria:



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- a. adherence to work limitations that the treating doctor has authorized based on the physical condition of the employee;
  - b. the maximum physical requirements for the position;
  - c. the work schedule for the position;
  - d. the expected duration of the assignment;
  - e. the availability of sufficient and appropriate work; and
  - f. accommodations will not cause an undue hardship on the employing department.
5. Light duty assignments may, at times, be limited in quantity. The University will make every attempt to place the employee in such a position either with their home department, which is preferred, or in another department.
6. If a valid temporary light duty assignment can be found, the WCR will consult with the employing department and then make a Bona Fide Offer for temporary employment, not to exceed 90 consecutive days, to the employee.
- a. The employee will be allowed up to (5) business days to accept or refuse the Bona Fide Offer.
  - b. If no response is received within this timeframe, the employee will be considered to have declined the offer. If the employee refuses the Bona Fide Offer, an employee may also be required to forfeit any workers' compensation income benefits he or she is receiving, or may be eligible to receive in the future, if he or she refuses a temporary light duty work assignment since the inability to obtain wages is no longer the result of the work-related injury or illness. An employee's refusal of a Bone Fide Offer may be subject to termination.
  - c. If the employee accepts the offer:
    - i. The employing department must notify HR of their decision.
    - ii. DEHS will provide all necessary documentation to HR for review and approval. HR will communicate with the WCR after its review and determine action to be taken.



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- iii. All University rules, regulations, policies, and departmental policies must be adhered to by the employee as they would be adhered to in regular employment. These activities include, but are not limited to, absenteeism, (sick and/or vacation leave), reporting to work in a timely manner, work performance, employee morale, and relationships with co-workers.
  - iv. In order to ascertain that the employee complies with the restrictions in the Work Status Report (DWC Form-73), the assignment will be reviewed as needed by the WCR and employee's home or temporary supervisor, as applicable, but no longer than 30 business days from the day the employee has signed the bona fide offer.
  - v. A Work Status Report (DWC Form-73), is to be updated with every visit to the treating physician in order to document the injured employee's current work restrictions. Restriction changes allow for modification of temporary assignment duties.
  - vi. The following applies to an employee assigned to a department other than their home department:
    - a) The employee will be assigned a temporary supervisor who is a member of the staff in the assigned department.
    - b) The home department supervisor and temporary supervisor will maintain communication regarding the employee's work status and medical condition.
    - c) The home department will be responsible for paying the employee's salary.
7. If a temporary light duty position cannot be accommodated, the injured employee will continue to be covered by Workers' Compensation Insurance.
8. At the end of 90 calendar days, the employee's health status is to be evaluated. The WCR will provide all necessary documentation to HR and, in some cases, the officer responsible for ADA Services for review and approval. HR will communicate with the WCR and the employing department after its review.
- a. If the employee is not able to return to work without medical or physical restrictions, the employee may be subject to termination. In some cases, an employee exhausting his or her allotment of temporary light assignment days may be eligible to remain employed pursuant to the terms of other UTPA



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policies (e.g., HOP, Section 7.6.5, *Authorized Paid Leave*; HOP 2.2.3, *Policy Concerning Accommodations for Individuals with Disabilities*; or HOP 7.6.8, *Family Medical Leave Act*). If termination is determined to be the appropriate action, HR and the employing department will advise the WCR and take action.

- b. If the employee is able to return to work, a full medical release from the employee's treating physician is required prior to the employee's return date. The WCR will provide a copy of the release to HR and the employing department.

### **G. Review**

The Divisional Head for this policy is the Vice President for Business Affairs, and this policy shall be reviewed every five years or sooner by the following Stakeholders:

1. Director of Environmental Health and Safety – Senior Reviewer
2. Assistant Vice President of Business Affairs for Human Resources
3. Staff Senate Chair
4. Faculty Senate