

Policies of the University of North Texas	Chapter 5
05.020 Return to Work	Human Resources

Policy Statement. It is the policy of the University to return employees to meaningful, productive temporary employment following injury or illness until they are released to full duty by their health care provider. The return to work program provides opportunities for any employee who sustains a compensable injury during the course and scope of employment, or has a serious health condition as defined by the Family and Medical Leave Act (FMLA) to safely return to work. If the employee is not capable of returning to full duty, the return to work program provides opportunities for the employee to perform a temporary assignment, either modified or alternative duty as defined in this policy.

This return to work program shall not be construed as acknowledgement by the university or its employees that any employee who participates in the program has a disability as defined by the Americans with Disabilities Act (ADA) of 1990. If an employee sustains an injury or illness that qualifies as a disability under the ADA, it is the employee's responsibility to inform his/her supervisor of the disability, to provide the medical or mental health documentation required under Policy No. 1.2.5, Employment of People with Disabilities, and to request a reasonable accommodation if one is necessary to perform the essential functions of his/her job.

Application of Policy.

All Staff

Definitions.

1. **Lost Time.** "Lost time" means time spent away from work at the direction of the treating health care provider as a result of a compensable injury sustained in the course and scope of employment, or a serious health condition defined by FMLA. The term does not include time worked in a temporary assignment.
2. **Full Duty.** "Full duty" means performance of all duties and tasks of the position for which the employee is employed. Full duty entails performing all essential and non-essential functions of the employee's regular job.
3. **Temporary Assignment.** "Temporary Assignment" means performance of a temporary job assignment intended to return an injured employee to work at less than his or her full duties when a serious injury or serious medical condition prevents the employee from working full duty. Temporary assignments are limited to one year at the same pay. Temporary assignments are modified duty and alternative duty.
4. **Modified Duty.** "Modified duty" means a temporary arrangement until the injured employee can resume full duty. It allows the employee to return to employment in his/her regular job and perform all of the essential functions of the position and those

nonessential duties and tasks that are within the capabilities of the employee, given the restrictions imposed by the treating health care provider.

If during the course of the modified duty assignment or after twelve (12) months, whichever is sooner, it is determined that the employee is a qualified individual with a disability as defined under the ADA, the employee may request a reasonable accommodation in accordance with University Policy 04.014. The modified duty position may be considered for a reasonable accommodation if the accommodation does not create an undue hardship on the University.

5. Alternative Duty: "Alternative duty" means a temporary arrangement until the injured employee can resume full activities of his/her regular job or until an alternate duty position is no longer needed. It allows the employee to temporarily perform the essential functions of a job and other nonessential duties and tasks, within the restrictions prescribed by the treating health care provider, other than the position for which the individual is employed (regular full-time position). Such alternative duty may be physically located in the same employing department or in a hosting department.
6. Hosting Department. "Hosting department" means department that has a temporary assignment position available but not necessarily the employee's department.
7. Employing Department. "Employing Department" means department that the employee is permanently assigned to for his/her full duty regular job.
8. Health Care Provider. As defined by the FMLA.

Procedures and Responsibilities.

I. General Provisions.

- A. Prohibited Actions. This return to work program shall not be applied to any situation or circumstance in a manner that retaliates or discriminates on the basis of race, color, sex, age, national origin, religion, or disability.
- B. Authorization for Leave and Lost Time. An employee who must miss work due to an injury or illness must be certified by a health care provider to be off work. It is the employee's responsibility to obtain such documentation from the health care provider and to return it to the supervisor within one working day upon receipt. Certification will be required after each visit to the health care provider and/or at regular intervals upon the request of Risk Management or Human Resources.
- C. Substitution of Paid Leave for Unpaid Leave. If the employee's injury or illness is not work-related, the employee's accrued annual leave and accrued sick leave must be utilized before unpaid leave is taken. If the absence is a compensable work-related injury or illness, the employee is not required to use all accrued annual or sick leave as of the date of injury, unless the employee elects to exhaust all accrued sick and/or annual leave.
- D. Return to Work Coordination. Risk Management will coordinate return to work activities for individuals who have sustained a compensable injury or illness during

the course and scope of employment. Human Resources will coordinate return to work activities for all other injuries and illnesses. As necessary, Risk Management and Human Resources will work with appropriate University departments and supervisors to fully implement this policy.

II. Temporary Assignment Procedures.

- A. An employee who is absent due to an injury or illness is required to submit written verification of the injury or illness from a qualified health care provider. Such verification must be submitted to the supervisor within one working day upon receipt of the documentation and in compliance with the applicable provisions of the ADA, FMLA, Texas Workers Compensation Act, and University policy.
- B. The injured employee's supervisor will provide a copy of the employee's regular job description to the Worker's Compensation Claims Coordinator to accompany a medical status form to be completed by the health care provider. When the medical status form is returned, it will be determined whether the employee can perform the essential functions of his/her job. The supervisor and/or department head is responsible for clearly identifying the essential functions and non-essential functions of the employee's job.
- C. If the employee is unable to perform the essential functions of his/her regular job, a temporary assignment position description may be developed by the employing/hosting department. The description must be completed on the Temporary Assignment Job Description form and approved by Risk Management and/or Human Resources before it is presented to the health care provider.
- D. The employee's health care provider must review and certify that the essential functions defined in the Temporary Assignment Job Description can be performed by the employee. If the health care provider changes the temporary assignment position description, the employing/hosting department must determine if the change is acceptable. Any changes proposed by the hosting department must be approved by the health care provider.
- E. The employing/hosting department retains the right to withdraw the offer of a temporary assignment if the changes made by the health care provider to the temporary assignment job description are unacceptable to meet business necessity. If a temporary assignment position cannot be found to conform to the health care provider's certification of the employee's capabilities, no temporary assignment position can be offered.
- F. Temporary assignments will be identified, assigned, and managed on a case-by-case basis based upon business necessity. Risk Management or Human Resources will coordinate the temporary assignment procedure.
- G. Temporary assignments can be requested by the employee, the employing department, or other departments by contacting Risk Management or Human Resources. It is the University's option to grant the temporary assignments.

- H. Funding for a temporary assignment outside of the injured employee's base payroll account department shall be divided or prorated as agreed between the hiring and hosting department(s).
- I. In the event an employee working in a temporary assignment for a hosting department incurs a new injury while working for the hosting department, the hiring and hosting departments will pay a prorated amount of the costs associated with the new injury.
- J. The employee must obtain the appropriate forms from Risk Management or Human Resources to be completed by his/her health care provider at each visit or every 30 days, whichever is sooner, for assessment of the employee's ability to perform the functions of the temporary assignment position. The employee is required to submit the Return to Work Status Form to his/her supervisor within one working day following each visit to his/her health care provider.
- K. When an injury or illness is not work related, the University reserves the right to require second or third medical opinions at its expense and/or a health care provider of the University's choice. Workers' Compensation cases will be governed by the relevant state laws.
- L. The hosting department may terminate the temporary assignment job at any time based on business necessity by informing the employee and Risk Management or Human Resources in writing.
- M. An employee who cannot continue or chooses not to continue a temporary assignment job must notify the employing/hosting department and Risk Management or Human Resources immediately in writing. An employee no longer covered under FMLA provisions who fails to accept a valid temporary assignment job or to continue an assignment as long as certified by his/her health care provider as physically able, may be subject to disciplinary action including termination.
- N. The period of temporary assignment is limited to a maximum period of one (1) year from the beginning date of the temporary assignment, or the duration of the medical condition, whichever ends first. The employee shall perform the duties of the temporary assignment for the term of the assignment or until the employee is able to return to full duty, whichever is sooner.
- O. The employing department is encouraged to provide temporary assignment jobs whenever possible.

III. Bona Fide Offer of Employment.

- A. The temporary job assignment offer shall be documented in a Temporary Assignment Bona Fide Offer of Employment. The letter to the employee shall include:
 - 1. the type of position offered and the specific duties;

2. a statement that the University/department 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;
3. the maximum physical requirements of the temporary assignment position;
4. the wage rate of the temporary assignment position;
5. the location of the temporary assignment position;
6. the expected duration of the temporary assignment position;
7. the consequences of not accepting a temporary assignment position with regard to temporary income benefits payable under the Texas Workers' Compensation Act and university benefits and rights;
8. the contact person regarding questions about the temporary assignment position or temporary modifications; and
9. the deadline for responding to Bona Fide Offer.

B. If the employee rejects a Temporary Assignment Bona Fide Offer of Employment, without medical justification, the employee's Workers' Compensation benefits can be terminated by the State Office of Risk Management. If an employee who is not covered under FMLA rejects the offer, he/she may be subject to disciplinary action up to and including termination. Failure to respond to the offer before the deadline will be considered a rejection of the offer.

IV. Employee Reporting Responsibilities.

- A. An employee who is a candidate or participant in a modified or alternative duty temporary job assignment under the Return to Work program is responsible for reporting to the State Office of Risk Management and Risk Management or Human Resources any employment or income earned while performing modified or alternative duty. Failure to report employment or income may constitute fraud as defined by state law and the University Worker's Compensation policy.
- B. An employee participating in the Return to Work program must provide his/her supervisor with medical documentation accounting for all absences due to the injury/illness within one day of any absence from work, or face disciplinary action, up to and including termination.

V. Non-Retaliation. Retaliation against an individual for in good faith filing a request or making a claim under this or related policies, for instituting or causing to be instituted any proceeding under state or federal anti-discrimination or anti-retaliation laws, for testifying in an investigation or proceeding, or for otherwise opposing discriminatory or retaliatory actions or practices will not be tolerated. Retaliation by any University employee is a violation of this policy. Individuals who believe they are the victim of discrimination or retaliation and those who suspect discrimination or retaliation should

report the matter to their immediate supervisor, the head of their department, the Human Resources Department, or the Division of Equity and Diversity.

Students should report suspected discrimination and retaliation to the Center for Student Rights and Responsibilities, the Office of Disability Affairs, or the Division of Equity and Diversity.

Nothing in this policy should be interpreted as requiring an individual to report suspected acts of discrimination or retaliation to the individual he or she believes is engaging in discriminatory or retaliatory conduct.

References and Cross-references.

Workers' Compensation, 15.005

Family and Medical Leave Act, 05.064

Americans with Disabilities Act, 04.014

Forms and Tools.

None

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Effective:

Revised: 8/92; 8/97; 9/99; 9/01; 7/02

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