

## **The University of Texas at El Paso Return to Work Policy**

### **A. Purpose and Scope**

It is the policy of The University of Texas at El Paso (UTEP) to support employees who sustain work-related injuries or illnesses, in the recovery of their health and earning power by establishing a Return to Work (RTW) program whereby UTEP attempts, where possible, to place employees who are temporarily restricted from performing their regularly assigned duties due to a work-related injury or illness in a temporary position (also known as modified duty) that addresses the restrictions. Employees who return to productive work as soon as possible following a work-related injury or illness require less medical care and experience reduced severity of disability. Work becomes an integral part of the employee's treatment and accelerates the recovery process.

Unless otherwise specified in this policy, services set forth as part of the RTW program will be provided on behalf of UTEP by its Workers' Compensation Insurance (WCI) Advisor.

The RTW program shall not be construed as recognition that an employee who has sustained a work-related injury or illness is considered to have a disability as defined by the American with Disabilities Act (ADA) of 1990. An employee who believes that an illness or injury is permanent, progressive or chronic may consult with the UTEP ADA Coordinator to determine the applicability of the Americans with Disabilities Act.

This policy applies to all employees at The University of Texas at El Paso (UTEP).

### **B. Procedure**

1. When an employee's work-related injury or illness results in lost time from work, the department that employs the employee (the Employing Department) must notify the WCI advisor at UTEP. The WCI Advisor will then notify the employee and the employee's treating doctor in writing of UTEP's RTW program. A copy of the employee's regular job description will accompany the notification.
2. The treating doctor shall provide a status DWC Form-73 to UTEP that returns the injured employee back to work and identifies any restrictions to be placed on the employee's work duties.
3. UTEP, at its option may also require employees who return to work after a lost time injury to undergo post-injury (fit-for-duty) physical assessments that are based on specific performance parameters and account for demands of the specified job description. Affected job descriptions will be reviewed and updated as needed to ensure that fit-for-duty physical assessments remain valid. Individuals who are deemed not fit-for-duty may be assigned to the RTW program.
4. Upon receipt of the DWC Form-73, the Employing Department, in coordination with the WCI Advisor, will determine the availability of a RTW assignment consistent with the employee's restrictions. To be eligible for the RTW program, the employee's DWC Form-73 must specify 1) the restrictions identified by the treating doctor; 2) a date when the restrictions will end 3); and when the employee is expected to resume normal work duties or is due to be reassessed by the treating doctor.

The temporary assignment must consist of work that is considered meaningful and productive and include performing duties in support of institutional or departmental objectives. All offers of temporary work assignments will be made on a per-injury or per-illness basis.

5. If a temporary assignment is not available in the Employing Department, UTEP may elect to place the employee in a temporary assignment that is consistent with the physical limitations prescribed by the treating doctor.

If UTEP is unable to identify a temporary assignment either within or outside of the Employing Department, the employee will not be eligible for an assignment through the RTW program and will remain off work.

### **C. Offer of Temporary Work Assignment**

The temporary RTW program assignment will be made via a bona fide written offer of employment that will include at a minimum the position offered; the duration, location and duties of the position; the compensation payable for the position, a statement that the employer is aware of and will abide by the restrictions imposed on the employee by the treating physician; that the employer will assign only duties consistent with the employee's knowledge and skill; and any other required components set by the rules adopted by the Division of Workers' Compensation. The applicable DWC Form-73 shall be attached to the written offer of employment. The offer will not take effect unless it is accepted and signed by the employee and the department in which the assignment is located.

### **D. Refusal to Accept RTW Temporary Work Assignment**

An employee may choose to accept or refuse a temporary work assignment. However, refusal to accept a temporary work assignment is grounds for termination. Additionally, refusal of this offer may affect an employee's Workers' Compensation income benefits.

### **E. Length of RTW Temporary Assignment**

The maximum length of a RTW temporary work assignment shall not exceed six months including all time actively performing the temporary work assignment and all subsequent absence from the assignment due to the original injury or illness. In order to continue employment in their regular position the employee must be able to return to full duty without restriction within the maximum six-month period.

### **F. Compensation**

In most cases, there will not be an adjustment in the compensation of an employee who is placed in a temporary work assignment. However, the employee's salary will be equivalent to the salary of other employees holding the same position and will be commensurate with the number of hours worked each week. The salary and benefits of the employee will remain the responsibility of the Employing Department regardless of whether the employee's temporary work assignment is in another department.

### **G. Periodic Medical and Work Status Reports**

An employee on a RTW temporary assignment must undergo periodic evaluations by the treating physician to determine when there is a change in work status or a substantial change in

restrictions. The periodic evaluations must occur as scheduled by the treating doctor or at least once every 90 days during the temporary work assignment. The treating physician must prepare a DWC Form-73 after every doctor visit when there is a change in work status, change in restrictions, or change of a date of expiration for restrictions. The employee must provide the DWC Form-73 to the WCI Advisor by the next business day following the evaluation. If a DWC-Form 73 form indicates that the restrictions no longer apply and that the employee is released to full-duty, the temporary work assignment shall automatically terminate and the employee must immediately resume regular full duties.

If at any time a DWC Form-73 indicates that the restrictions are expected to last beyond the maximum six month temporary work assignment, the employee's eligibility to participate in the RTW program will be subject to review and possible termination.

#### **H. Work Performance and Conduct**

Employee's performance or conduct during his or her temporary work assignment will be governed by the policies set forth in the *UTEP Handbook of Operating Procedures (UTEP HOP) as applicable. Failure to comply with the terms of employment or those polices shall be governed by UTEP HOP, Section V, Chapter 6. Discipline and Dismissal of Staff Employees.*

#### **I. Termination**

An employee who has exhausted the maximum six (6) month temporary work assignment period and has not been released to full-duty without restriction, upon exhaustion of all paid leave options, shall either:

Apply for leave without pay in accordance with the University's leave without pay policy; or

Voluntarily terminate employment with the university.

If the employee requests a leave without pay which is not granted, the employee's employment will be terminated. The termination process shall comply with UTEP HOP, Section V, Chapter 6, Discipline and Dismissal of Staff Employees policy.

#### **J. UTEP Workers' Compensation Insurance Contact**

The Office of Environmental Health & Safety is responsible for administering the Return to Work Policy in consultation with the employee's department. Questions regarding the Return to Work policy should be directed to the WCI Advisor at 915-747-7199.