

Samples of Injury Leave/Modified Duty/Return to Work Provisions of Personnel Policies

(Note: Sample are for illustrative purposes only and must be modified as necessary to reflect the individual employer's benefits programs, leave policies, and other applicable policies.

SAMPLE 1:

1. WORK-RELATED INJURY AND RETURN TO WORK POLICY

1.1 Return-to-Work Policy

The City has elected to adopt a return-to-work policy with the intent to utilize eligible workers in a job-related incident in a productive capacity while they are recovering from an injury. The goal of temporary modified duty is to provide a progression of job duties that will return the injured worker to their regular job.

The Human Resources Director or their designee will be responsible for coordinating the return-to-work program.

1.2 Return to Work Program

The following return-to-work program should be followed when an employee sustains a work-related injury or illness.

- 1) All injuries, no matter how minor, will be reported by the injured worker to the worker's direct supervisor or Human Resources, as soon as they are able and report in writing within 10 days after the injury, supervisors will notify the designated coordinator. Injuries will be filed with the City's Worker's Compensation Provider.
- 2) The injured worker will seek medical attention from one of the designated medical providers.
- 3) In case of an emergency, the injured worker is to seek medical attention from the nearest medical facility. Follow-up care must be coordinated through the designated medical provider. The Worker's Compensation Provider may not pay for medical expenses incurred by the injured worker, if they seek unauthorized treatment from a non-designated medical provider. When possible, follow-up medical appointments are to be made before or after work hours. Time off for medical appointments will be treated consistently with other personnel policies.

While on modified duty, the injured worker will be held to all existing personnel policies and will be responsible for maintaining acceptable performance standards as a condition of continued employment.

Modified duty assignments are designed to be temporary and transitional in nature. They will be reviewed jointly by the supervisor, injured worker, and relevant staff to address increasing work duties and overall performance. While on worker's compensation leave, an employee may continue to receive health insurance benefits. The modified duty is not intended to exceed six months, unless authorized in writing by the designated coordinator.

SAMPLE 2:

MODIFIED DUTY, ALTERNATE DUTY, RETURN-TO-WORK

PURPOSE

This policy is intended to serve as a guide to assist employees who have sustained a work-related accident, an injury, or an illness to return to employment as soon as possible, while adhering to temporary, physician-imposed physical restrictions. The City will make reasonable efforts to provide modified duty work assignments to employees released by the physician to return to work with specific restrictions.

SCOPE

At the discretion of the City, all employees who are eligible to return to work on a “modified duty or alternate duty” status, considering that the following criterion exists:

- The injury sustained by the employee has been determined to be work-related and compensable or,
- The physical restrictions imposed by the treating physician are for a specified injury or temporary illness period,
- Work-related tasks, which are within the physical limitations of the treating physician, are available and are within the physical and skill capacities of the injured employee, with reasonable accommodations made by the City, employee or both.

DEFINITIONS

Modified Duty (also known as light duty) – A temporary situation where an employee returns from an injury or illness to modified or restricted duties in the previously held position.

Alternate Duty – A situation where temporary medical restrictions preclude the return to duty in the employee’s previous position, and a temporary assignment to an alternate position is offered within the home department or a hosting department.

Home Department – The department to which employee is assigned during normal employment.

Hosting Department – The department that provides alternate duty to an injured employee.

Limited Nature of Modified Duty Assignment

By definition, modified duty assignments are temporary. In no way should a modified duty work assignment be perceived as permanent work or a permanent job change. As such, any modified duty work assignment must be reviewed by City management to determine if the modified duty work assignment is to be extended beyond an initial 30-day period. The duration of modified duty or alternate duty should be the lesser of the duration of the medical restrictions or three calendar months, commencing upon the date the department offered the modified duty. At the end of three calendar months, the case shall be reviewed for determination of status. At the time of review, the current physical restrictions, prognosis for length of recovery, and the continued availability of

modified duty will be assessed as to extending the assignment. If the employee is unable to return to unrestricted pre-injury/illness job duties by the end of a six-month period, Human Resources will be consulted to determine if the employee is eligible for any other types of leave, including Long Term Disability.

Temporary Modified Duty Position Description

If Modified or Alternate Duty assignment is called for, the department should prepare a "Temporary Modified Duty Assignment" form demonstrating that such duty is in accordance with the employee's medical restrictions. The employee must agree to the Modified/Alternate position or decline the position, sign the form, have their supervisor sign the form, and return the form to Human Resources.

Refusal of Modified Duty Assignment

As previously noted, the City will make reasonable efforts to provide employees with Modified Duty work assignments following a work-related injury, other injury or illness for which the treating physician imposes temporary physical restrictions. If the employee is under FMLA and chooses not to accept the Modified Duty assignment, it may result in termination of Workers' compensation indemnity benefits or Short-Term Disability benefits. If the employee does not feel that the position is within the restrictions placed by the physician, the form with the position description will be forwarded, by the City, to the physician for his recommendations and approval.

SAMPLE 3:

Injury Leave

If disabled due to an on-the-job injury and entitled to receive benefits under the Workers' Compensation Law of the State of Colorado for temporary partial disability or temporary total disability, work time missed may be charged as injury leave subject to the limitations detailed below.

If work is missed due to an on-the-job injury, employees are permitted to be on injury leave when a designated physician has certified, in writing, that the time off is related to the injury.

Injury leave is paid at an employee's normal rate of pay for a maximum of 90 calendar days per injury and will be considered as part of and administered in accordance with Family and Medical Leave.

If a question arises concerning liability for a workers' compensation claim, leave time will be charged to another available leave category until there is an admission of liability by the insurance carrier or third-party administrator. If an admission of liability is made, leave time used will be reinstated or time taken as leave without pay will be paid.

Injury leave shall terminate after 90 calendar days or as it applies below, whichever occurs first:

- On the date a ruling of permanent disability is made.
- When the designated physician authorizes a return to the employee's regular job, modified job duties, or to participate in the Alternate Work Program.

- When the employee reaches maximum medical improvement (MMI).

Employees who exhaust the 90 calendar days of injury leave may be eligible to continue to receive compensation at a rate equal to two-thirds of their regular pay as administered through the insurance carrier or third-party administrator. Available leave hours may be used to supplement injury leave pay to 100% during the leave time. Under no circumstances will an employee receive a combination of paid leave and injury leave which exceeds 100% of the employee's normal base pay.

Alternate Work Program

The Alternate Work Program, sometimes called "light duty program", "light duty status" and "alternate duty" allows a full-time and/or three-quarter-time employee to return to work in a capacity that suits their physical limitations when a physician certifies their inability to perform regular job duties following an on-the-job or off-the-job injury or illness but certifies that they are eligible for an alternate work assignment. Employees are not guaranteed placement in an alternate work assignment. Alternate work assignments will be made based on availability and as deemed necessary to the operation of the City.

On the Job Injury or Illness

If an employee sustains an on-the-job injury or illness and the designated physician determines that they are not able to return to regular job duties but may perform other work activities, they may be eligible for placement in the Alternate Work Program, which may consist of working anywhere in the City or simply a modification of current duties.

If an employee sustains an on-the-job injury or illness and unreasonably refuses to accept an alternate work assignment, their workers' compensation benefits for lost work time may end and the employee may be subject to disciplinary action up to and including termination.

If working in an alternate work assignment as the result of an on-the-job injury and the employee is placed at maximum medical improvement (MMI) with permanent restrictions by a designated physician, eligibility to participate in the program ceases. The employee's ability to perform the essential functions of the position held at the time of injury/illness, with or without reasonable accommodation, will be reviewed at that time. If unable to perform the essential functions of the position, employment may be terminated, subject to applicable state and federal law.

Off the Job Injury or Illness

If an employee sustains an off-the-job injury or illness and the physician certifies in writing that the employee is unable to return to regular job duties but may perform other work activities, the employee may be eligible for voluntary placement in the Alternate Work Program. The supervisor may accommodate work restrictions by modifying current job duties. If this is not possible, it is the employee's responsibility to contact the Human Resources Department to determine if another alternate work assignment is available. Preference for placement in the Alternate Work Program will be given to those employees who sustain an on-the-job injury or illness.

General Provisions

The Alternate Work Program will consist of a temporary alternate work assignment(s) which will be consistent with the physician's work restrictions for the employee. These assignment(s) may be in the employee's own department or in another department, may simply entail a modification of current duties to allow work within the physician's restriction or a combination of these assignments.

The Human Resources Department will be responsible for working with City departments to identify and place employees in alternate work assignments.

The employee's medical condition will be reviewed periodically to determine if they can resume normal unrestricted job duties or resume normal job duties with restrictions that can be accommodated by the department if this is not already being done.

Under the Alternate Work Program, salary and benefits costs will be charged to the department in which the normal position is budgeted.

An employee may work in an alternate work assignment for less than but not more than six (6) continuous calendar months. Releases of less than thirty (30) calendar days to perform regular job duties with no restrictions will not disrupt the six (6) month continuous period. If six (6) calendar months have elapsed and the employee has not received a physician's release to return to their former position, they may be terminated for an inability to perform the essential job functions of the position for which they were hired. If this situation occurs, an employee may also be eligible for extended leave. Please refer to the "Extended Leave" section of this handbook for additional information.

If working in an alternate work assignment and released to full duty within six (6) months of the injury or illness by the treating physician, an employee will return to the same or similar position held at the time of injury or illness. Placement in an alternate work assignment is never a regular or permanent assignment.

At any time during placement in the Alternate Work Program, an employee is eligible to compete for appropriate job openings for which they are qualified.

Extended Leave

Extended leave may be an option for employees who have been employed for at least 24 months. Employees who are absent from work while on any type of approved leave related to an injury or illness or in the Alternate Work Program for a period that exceeds three (3) continuous months (90 calendar days) may be terminated subject to provisions of federal and state law, based on the situation and the City's ability to leave the employee's position vacant for a longer period of time.

Employees being paid temporary partial disability or temporary total disability under the City's workers' comp benefit or who are being paid under the City's Long Term Disability benefit may be required to or will have the option of using other paid leave to supplement his/her pay.

Refer to the Long-Term Disability and Injury Leave sections of this handbook for more information.

Employees who are absent from work on an intermittent basis (more than 480 hours in a rolling 12-month period and pro-rated for three-quarter and part-time employees based on individual work schedules) while on any type of approved leave related to an injury or illness and/or in the

Alternate Work program on an intermittent basis for a period that exceeds six (6) months will be subject to a change in employment status (e.g. full-time to part-time), terminated or another alternative appropriate to the situation subject to provisions of federal and state law, based on the situation and the City's ability to accommodate the intermittent leave. This policy will apply regardless of the reason for the intermittent leave.