

# Early Return to Work Program

## Standard Administrative Procedure

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### 1. GENERAL

1.1 The purpose of this Standard Administrative Procedure (SAP) is to implement and administer an Early Return to Work Program, while ensuring fairness and consistency for the employees of The Texas A&M University System (the System) and its components. Herein the term “employee” refers to any employee of the System and/or its components and “employer” will refer to the supervising unit of the System component. This SAP is intended as a guide and does not create a contract, implied or expressed, with any employee. The System reserves the right to modify this SAP in whole or in part at any time at the discretion of the System Office of Risk Management & Safety.

1.2 The objective of the program is to return employees to safe and productive employment as soon as medically possible following an injury/illness in either their pre-injury/illness job without restrictions or in a temporary work assignment, if available, as described in section 4.

1.3 The program does not obligate the employer to create work or to return an employee who has had an injury/illness to work if there is no appropriate work available.

1.4 The program does obligate the employer to try to provide meaningful work consistent with the employee's knowledge, skills, and physical capabilities within the limitations specified by the employee's physician, if reasonably possible.

1.5 This SAP is intended as a minimum standard. Each System component is authorized to implement its own procedures as long as the intent of this SAP is met in the procedures set forth.

### 2. BENEFITS

2.1 Early return to work following an injury/illness is beneficial to both the employer and the affected employees.

2.1.1 *Benefit to Employees* - Employees remain active and productive; concerns about continued employment may be resolved; full or partial wages are earned bringing income closer to pre-injury/illness wages; employees experience less disruption to their lives; loss of physical fitness and muscle tone due to inactivity may be prevented; employees maintain pre-injury/illness benefits; and maintain contact with and support from co-workers and friends.

2.1.2 *Benefit to the Employer* - Productivity is maintained; the employer retains the production of skilled and experienced employees; expenses are reduced for recruiting, hiring, training, or salary of replacement employees; overtime may be lessened to make up for lost production; work delays and business interruptions are eliminated or reduced when experienced employees return to work; Workers' Compensation costs (if applicable) are reduced when injured employees return to work; communications and relationships between employees and their department are enhanced based on the commitment by all parties; and the employer's interest and concern for employees is reinforced.

### **3. ELIGIBILITY REQUIREMENTS**

To be eligible to participate in this program the individual must be a current employee of the System, have been an employee of the System at the time the injury/illness occurred, and be temporarily unable to return to pre-injury/illness duties as a result of an injury/illness.

### **4. TEMPORARY WORK ASSIGNMENTS (TWA)**

**4.1 Temporary Work Assignments** - can be the bridge to help employees return to their pre-injury/illness job without restrictions. TWA may be made when employees temporarily cannot perform the duties of their job due to injury/illness and have been released to work with restrictions by their physician. TWA will be monitored by the supervisor/departmental representative and must be consistent with the employee's knowledge, skills, and physical capabilities within the limitations specified by the employee's physician. The following are recommended types of TWA:

4.1.1 *Modified Regular Duty* - This may include temporary modifications to the employee's position such as schedule changes, reduced hours, reduced capacities, or sharing parts of job responsibilities with co-workers.

4.1.2 *Alternate Work Assignments* - The supervisor/departmental representative may consider jobs or tasks that need to be done and may accept input from the employee and the employee's co-workers to identify everyday or new tasks that could be done by the employee as a temporary assignment.

4.1.3 *Alternate Work Location* - The employee may request the opportunity to temporarily work at an alternate work location. The supervisor/departmental representative will consider whether or not the employee meets the eligibility criteria and will determine if the alternate work location assignment will be beneficial to the department.

## **5. PREPARATION FOR IMPLEMENTING THE PROGRAM**

5.1 The supervisor/departmental representative will review and maintain current position descriptions to ensure work and physical requirements are accurate.

5.2 The component safety office and/or the System Office of Risk Management & Safety are available as a resource for workplace or safety procedure review.

5.3 Departments should inform employees and supervisors about the program and communicate the benefits.

## **6. PROCEDURE FOR IMPLEMENTING THE PROGRAM FOR A SPECIFIC EMPLOYEE**

**6.1 Americans with Disabilities Act (ADA)** - In situations where the employee has special needs that merit consideration under the ADA, the employee and/or supervisor/departmental representative should contact their employer's human resources department (HR) for guidance. Participation in the Early Return to Work Program shall not be construed as recognition by the employer that the employee has a disability as defined by the ADA.

**6.2 Family Medical Leave Act (FMLA)** - When an employee experiences an injury/illness, the supervisor/departmental representative, in addition to following the procedures specified in this SAP, must follow the procedures specified in *System Regulation 31.03.05 Family and Medical Leave* and may wish to review the FMLA 101 Tutorial.

6.2.1 An FMLA eligible employee that has been released by a physician to return to work with restrictions may elect to use FMLA leave rather than participate in the program under a TWA, if 12-workweeks of FMLA have not been exhausted during the fiscal year. If the injury/illness has been accepted as compensable under Workers' Compensation, the election to use FMLA leave rather than participate in the program under a TWA may result in a reduction or discontinuance of workers' compensation temporary wage replacement benefits.

6.2.2 If an FMLA eligible employee voluntarily elects to participate in the program under a TWA, that is for reduced work hours due to the physician's restrictions, the hours the employee is not physically at work will count towards FMLA, if the employee has not exhausted 12-workweeks of FMLA during the fiscal year.

**6.3 Work-related Injury** - If the injury/illness is work-related, the supervisor/departmental representative, in addition to following the procedures specified in this SAP, should follow the

Workers' Compensation procedures specified in *System Regulation 24.01.02*.

#### **6.4 Work-related or Non-work-related Injury/Illness**

6.4.1 If the department receives medical documentation indicating physical restrictions, the supervisor/departmental representative will attempt to identify a TWA as explained in section 4.

6.4.2 If it is unclear from the medical documentation whether or not the employee can safely perform the duties of the pre-injury/illness position description, the supervisor/departmental representative will request that the employee sign the *Information Release on Ability to Perform Job Duties Form*. The supervisor/departmental representative will give the employee the original of the completed *Physician's Early Return to Work Program Information Sheet* with an attached *Texas A&M University System Early Return to Work Program – Work Status Report*, the original of the *Information Release on Ability to Perform Job Duties Form*, and a copy of the employee's position description to provide to the physician for clarification.

6.4.3 If the department receives updated medical documentation, the supervisor/departmental representative will attempt to identify a TWA as explained in section 4.

#### **7. BONA FIDE OFFER OF EMPLOYMENT (BOE)**

7.1 If a TWA is identified, the supervisor/departmental representative will prepare a BOE for the employee to review and sign, indicating a decision. The employee may not perform work until the BOE is signed.

7.2 After the employee accepts or declines the BOE, or if the employee fails to respond to the BOE, the supervisor/departmental representative will provide the employee with a copy of the BOE with the employee's signature or a statement indicating the employee failed to respond, and a copy of the medical documentation that the BOE is based upon.

7.3 If the injury/illness is work-related, the supervisor/departmental representative will fax to the Workers' Compensation representative for their respective component the BOE with the employee's signature or a statement indicating the employee failed to respond, and the medical documentation that the BOE is based upon.

7.4 While working under a BOE, the employee is expected to follow all employer policies, regulations and rules, maintain satisfactory performance of the job duties outlined in the BOE, and comply with all of the terms and conditions of the BOE. Failure to do so may result in termination of the BOE and other disciplinary action up to and including termination. Contact

the employer's human resources department for guidance.

## **8. NOTICE OF INABILITY TO IDENTIFY A TEMPORARY WORK ASSIGNMENT**

8.1 If the supervisor/departmental representative is unable to identify a TWA, the employee will be provided a copy of the completed *Notice of Inability to Identify a Temporary Work Assignment* and a copy of the medical documentation that the *Notice* is based upon.

8.2 If the injury/illness is work-related, the supervisor/departmental representative will fax to the Workers' Compensation representative for the respective component the *Notice of Inability to Identify a Temporary Work Assignment* and the medical documentation that the *Notice* is based upon.

8.3 If the department receives updated medical documentation, the supervisor/departmental representative will attempt to identify a TWA as explained in section 4.

## **9. CONTINUING PARTICIPATION IN THE PROGRAM**

9.1 The TWA described on the BOE is subject to regular re-evaluation.

9.1.1 If the treating physician changes the physical work restrictions, the employee will provide the updated medical information to the supervisor/departmental representative by the next scheduled workday.

9.1.2 Upon receiving updated medical information, the supervisor/departmental representative will re-evaluate the ability to provide a TWA based on the restrictions outlined by the physician.

9.2 The opportunity to participate in the program is a temporary measure to facilitate early return to work and will not exceed 45 calendar days in duration per injury/illness, commencing upon the date the department offered the first BOE for the injury/illness (see Section 7.1). If the employee is unable to return to unrestricted pre-injury/illness job duties by the end of the 45 days, the employee's opportunity to participate in the program will end. To determine the employee's employment status at that time, the department should consult with human resources.

9.3 In no case is the employer obligated to extend participation in the program past the expected duration of the position the employee occupied prior to the injury/illness.

## **10. TERMINATION DUE TO BUSINESS NECESSITY**

Termination due to business necessity is an option if an employee is unable to return to unrestricted pre-injury/illness job duties, or the department is unable to identify a TWA, or an employee declines a BOE, and the employee has exhausted or is ineligible for FMLA. Supervisors and departmental administrators requiring assistance in determining whether to terminate an employee due to business necessity so that the work of the department may be effectively handled, should contact the employer's human resources department, where a *Termination Due to Business Necessity Checklist* is available. Involuntary termination of nonfaculty employees must be reviewed by the employer's human resources department.