

# Sierra College

## ADMINISTRATIVE PROCEDURE

AP 7349

### Return to Work Program

Date Adopted: 3/10/1998

Date Revised: 3/8/2019

Date Reviewed: 3/8/2019

References: Education Code Sections 66270, 66271.1, 66281.5; Government Code Section 11135-11138; 12926, 12950, 12950.1; Title 5 Section 59300 et seq.; 34 CFR Section 106.8(b); 20 USC § 1681 et seq.; Title VI of the Civil Rights Act of 1964; Americans with Disabilities Act (ADA) of 1990; ADA Amendments Act of 2008; Rehabilitation Act of 1973

The purpose of the District's Return to Work Program (RTW) is to assist injured workers with recovering quickly and returning to meaningful employment. The District's Return to Work Program provides employees who are injured or ill with a safe, timely transition back to their regular work duties. The Return to Work Program applies to all employees who sustain a work-related (industrial) injury or illness which stems from their employment. The program is also extended to non-industrial incidents or illnesses, at the discretion of the District.

Sierra College shall identify and determine placement of an ill or injured employee to a modified or alternative work assignment based on each employee's ability to return to work and perform regular work duties that are within the acceptable limitations or restrictions arranged for them by their treating medical provider. If a job accommodation is not available for an employee within their work location, the feasibility of another job assignment shall be considered and explored by Human Resources.

Basic guidelines for the RTW program shall include a specific start and end date within a timeframe of 180 calendar days based upon the medical restrictions of the employee's injury or illness and the availability of modified or alternative work assignments. RTW assignments will closely be evaluated and re-assessed on a periodic basis by the employee's supervisor and Human Resources to determine the appropriateness of continuing modified or alternative work assignment based on the employee making medical progress toward recovery and return to full duty.

The following procedures outline the District's Return to Work Program.

## I. DEFINITIONS OF TEMPORARY MODIFIED OR ALTERNATIVE WORK

Modified and alternative work assignments are temporary, not to exceed 180 calendar days, assignments which assist the injured or ill employee in returning to work at a level they are physically capable of performing until they can return to their usual and customary position. This type of work is a transitional process, which enables the employee to gradually resume their full-time duties as recommended by their primary treating medical provider.

## II. PROCEDURES

### A. Returning to Work After Sustaining a Work-Related Injury or Illness.

1. The industrially-injured employee is released to return to work by their treating doctor with temporary work restrictions. The employee must notify Human Resources and their supervisor immediately of their release and provide a copy of their "work status" outlining temporary work restrictions.
2. Human Resources, in conjunction with the employee's supervisor and the employee, will determine if the employee can be accommodated within the assigned temporary work restrictions. If an accommodation can be made, Human Resources, in conjunction with the employee's supervisor, will determine appropriate work duties to be performed while on temporary modified duty. If an accommodation cannot be made, employee will be placed on inactive status and provided with temporary disability benefits through the District's third-party administrator.
3. Human Resources will notify the third-party administrator concerning the injured employee's work status as soon as possible.
4. When the employee is notified that modified duty is available, Human Resources will provide the employee with a Notice of Temporary Modified Duty outlining the requirements of the Return to Work program, which typically shall not exceed 180 calendar days.
5. Should the employee choose not to return to work or refuse to perform the modified duties as assigned, the employee will be required to provide a notice from the treating doctor. This notice must state that the employee cannot perform the modified duties as assigned or is temporarily totally disabled (TTD) from all work. Should the employee fail to provide any valid reason why they cannot work, disciplinary action may be initiated and Human Resources shall notify the third-party administrator that the employee has refused work. During this off-work period, the employee must use accrued sick time and is not eligible for temporary disability benefits until they provide an appropriate notice from their treating doctor.

6. The supervisor will monitor the employee while on temporary modified duty to ensure the employee is working within the assigned work restrictions. Monitoring will continue until the employee is released to regular duty or 180 days, whichever comes first.
  7. If the employee continues with work restrictions beyond the 180th day, the employee may be taken off work and placed on inactive status and provided with temporary disability benefits through the third-party administrator.
  8. Human Resources will remain in communication with the employee while they are off work to ensure medical certification from the treating doctor is received and the employee understands their work status.
  9. Should the employee be declared *Maximum Medical Improvement* (MMI) with permanent work restrictions, an accommodation meeting with all involved parties shall be conducted as required under the ADA to determine if the District can accommodate the work restrictions on a permanent basis.
  10. If it is determined that an accommodation can be provided on a permanent basis and the modified or alternate position has met all the requirements under Labor Code, the District shall notify the third-party administrator and formally document the new job duties and permanent accommodations being agreed to and the employee will be returned to work as soon as possible.
  11. If the District determines it cannot accommodate the permanent work restrictions, the employee shall be provided with Job Displacement benefits through the District's third-party administrator in accordance with the California Labor Code.
- B. Return to Work After a Non-Work Related Injury or Illness.
1. The employee follows previously established District procedures in the notification of time away from work.
  2. When the employee's treating physician releases them to modified or alternative work and outlines work restrictions in writing the employee may make a RTW request by using the Accommodation Request form.
    - a. The work restrictions should clearly outline the functional limitations and the duration of time they are in effect.
    - b. If the aforementioned is not present on the medical release form, Human Resources should obtain clarification from the treating physician. This may be done using the Fitness for Duty form.
  3. Human Resources, the supervisor, and the employee will engage in an "interactive" dialogue to discuss possible temporary job modifications and/or alternative work.
    - a. The "Employee Information Sheet," is given to the employee and reviewed with them.

- b. If restrictions permit, and are only for a short period of time, the employee's regular job may be modified to accommodate the restrictions.
          - i. The modified or alternative work duty program is intended for temporary disabling injuries; therefore, accommodations will initially be considered for 180 days. If the disability is deemed permanent, another interactive meeting will be necessary.
4. The employee will be returned to work within the restrictions given by their treating medical doctor with the first priority being to assign the employee to the same job observing the prescribed restrictions.
  - a. If appropriate tasks cannot be found within the same job, the employee may be placed in another job that meets the prescribed restrictions.
  - b. If the restrictions are such that the regular job cannot be modified, Human Resources may outline alternative assignments that may be available to the employee.
  - c. Overtime work or extra duty assignments are not recommended or authorized while an employee is on modified or alternative work.
5. After the details have been agreed upon, Human Resources will document the Interactive Meeting, including proposed start/end dates and all agreed-upon accommodations.
  - a. The supervisor and the employee must review and sign the RTW: Interactive Process Meeting Documentation.
  - b. The RTW: Interactive Process Meeting Documentation shall be placed in a separate file, outside the employee's regular personnel file.
  - c. The supervisor must review the progress of the employee working within the guidelines of RTW: Interactive Process Meeting Documentation periodically, at least every 30-45 calendar days, or as needed.
6. When an employee in the RTW program is sick or unable to report to work, they must contact their supervisor and/or Human Resources immediately.
7. This temporary assignment is subject to change and should not exceed 180 calendar days. If at any time the employee believes they are unable to perform the temporary modified or alternative work assignment or they feel the physical requirements of the position exceed their limitations, they should notify their supervisor and Human Resources immediately.
8. At the conclusion of the modified or alternative work assignment, Human Resources, the supervisor, and employee will meet to discuss whether the plan should be terminated, extended, or altered.
9. Each employee will be analyzed on an as-needed, per occurrence basis. Reasonable accommodations made by the District do not constitute establishing a new job, nor shall it displace other employees.

*(Note: this regulation should not be construed as recognition that an employee has a disability as defined by the Americans with Disabilities Act (ADA) of 1990.)*

See Board Policy 7349.