

## **Nevada System of Higher Education (NSHE)**

### **Early Return-to-Work Policy**

#### **Application**

This policy applies to employees who suffer a work-related injury or develop an occupational disease.

#### **Policy Statement**

The NSHE recognizes the need to support the recovery of employees should they suffer a work-related injury or develop an occupational disease. When an employee is temporarily unable to perform some or all of the duties of their regular job because of such an injury or disease, it is well established that recovery is accelerated when the employee continues to work. Based on this principle, the NSHE strongly supports early return-to-work and requires each institution to explore all early return-to-work options for an employee eligible for such assistance.

#### **Specifics of a Modified-Duty Assignment**

- A modified-duty assignment cannot last longer than ninety (90) calendar days, in most cases.
- A modified-duty assignment must be substantially similar to the employee's regular job in regard to location (within twenty-five miles of the regular position) and the hours (shift) worked.
- While working in a modified-duty assignment, the employee receives the same base rate of pay received while working in his/her regular position.
- A modified-duty assignment in another department or at another campus does not constitute a transfer to that position.
- The employee's original appointing authority is responsible for an employee's salary and benefits while the employee is working in a modified-duty assignment with another department or at another campus.
- If a modified-duty assignment is provided in another department or at another campus, that department or campus shall report the hours worked to the employee's original employing department.
- If a modified-duty assignment is provided in another department or at another campus, the employee's original employing department remains responsible for personnel issues.

### **Conditions for Offering an Assignment:**

- The employee is released to work, but the treating physician certifies that the employee is temporarily unable to perform some or all of his/her regular job duties.
- An appropriate modified-duty assignment is available.
- A modified-duty assignment is not prohibited by the source that funds the employee's regular position.
- The appointing authority would otherwise employ the employee had they not incurred the work-related injury or disease.
- The employee must have submitted a C-1 form (*Notice of an Industrial Injury or Occupational Disease*) to their department within seven days from the date of injury or development of an occupational disease, unless a legitimate excuse exists for not submitting the form within the time frame.
- The employee must have filed a C-4 form (*Employee's Claim for Compensation/Report of Initial Treatment*) with the NSHE's workers' compensation third party administrator within ninety days after receiving medical treatment or missing time from work.

### **Conditions for Terminating an Assignment:**

- Ninety calendar days elapse from the day the employee begins the modified-duty assignment. (Under certain conditions, one ninety-day extension may be authorized.)
- The employee's treating physician releases him/her to return to his/her regular position.
- The employee is given permanent restrictions that prevent a return to the regular position. (A modified-duty assignment must be terminated within thirty days after the employee is given permanent restrictions.)
- The modified-duty assignment is no longer available, or other conditions require the department to terminate the assignment.
- The employee's claim for workers' compensation is denied.
- The employee terminates his/her employment or retires.

### **Conditions for Extending an Assignment for an Additional Ninety-Day Period:**

- The employee remains unable to perform the duties of his/her regular position after the completion of a ninety-day modified-duty assignment.
- After working in a modified-duty assignment, the employee returns to work at his/her regular position, but again becomes temporarily unable to perform the duties of the position.
- The NSHE's workers' compensation third party administrator recommends the extension.
- The campus Workers' Compensation Office approves an extension.

### **Department Responsibilities:**

- Make employees aware of the early return-to-work process.
- Assist the campus Workers' Compensation Office in identifying modified-duty job tasks and special projects prior to the need to utilize modified-duty. Have employees participate in this process so they will be aware of the availability of modified-duty assignments.
- Immediately notify the campus Workers' Compensation Office when an injured employee is unable to work, or is given work restrictions that prevent the employee from performing some or all the duties of their regular job.
- With the assistance of the campus Workers' Compensation Office and the employee, develop a modified-duty assignment when the employee has temporary restrictions.
- Immediately notify the campus Workers' Compensation Office of any problems/concerns that develop during the course of the modified-duty assignment.
- If a modified-duty assignment is not available, maintain contact with the employee. Contact must be made at least once every two weeks.
- Notify the employee of his/her rights under the Family Medical Leave Act when appropriate.

### **Employee Responsibilities:**

- After each appointment with the treating physician, any medical certification of work status (restrictions, full-duty release, etc.) must be submitted to the supervisor and the campus Workers' Compensation Office. The medical certification should be submitted no later than the beginning of the first workday after the doctor's appointment, but must be submitted within three working days.

- Once notified of the availability of a modified-duty assignment, the employee must return to work on the date established by the department.
- After starting a modified-duty assignment, the employee must immediately notify the supervisor of any task(s) that might exceed the restrictions imposed by the treating physician.
- If unable to work, or if there is no modified-duty assignment, the employee must maintain contact with the department and the campus Workers' Compensation Office. Contact should be made with each at least once every two weeks.
- The employee may apply for a family and medical leave of absence (FMLA) if they have a serious medical condition that prevents them from performing one or more of the essential functions of their position. FMLA will be administered in compliance with the NSHE's FMLA Policy. Employees should contact their campus personnel office for details. (An employee granted family and medical leave may not be required to accept an offered modified-duty assignment. However, if an employee declines to accept such an assignment, the third party administrator may withhold benefits for time lost from work.

**Campus Workers' Compensation Office Responsibilities:**

- Provide supervisors and employees with training regarding the early return-to-work process.
- Review jobs in each department to identify essential functions and possible modified-duty assignments.
- When an employee has temporary restrictions, assist the department and employee in identifying a modified-duty assignment compatible with the employee's restrictions.
- Develop a written description of the modified-duty assignment when needed and submit the description to the employee's treating physician.
- Once the treating physician's approval is received, facilitate the employee's immediate return to work.
- Contact the employee and department at least once every thirty days during the period of a modified-duty assignment.
- If an assignment is not available in the employee's department, assist in developing a modified-duty assignment in another department or at another campus.

- The campus Workers' Compensation Office will first attempt to develop a modified-duty assignment within the original employing department. If these efforts are unsuccessful, an attempt will be made to develop a modified-duty assignment within another department at the same campus. Developing an assignment at another campus will always be the last option explored.
- If an employee is unable to work, or if a modified-duty assignment is not available, maintain consistent contact with the employee and department or campus. Contact with each will be made at least once every two weeks.
- Provide supervisors and employees with technical assistance and support regarding workers' compensation issues.

### **Procedure for Employees with Permanent Restrictions**

#### **Reemployment Eligibility within the NSHE (Classified Employees):**

- The employee must be a permanent employee.
- The employee would otherwise have continued in their regular position.
- The treating physician certifies that the employee is permanently unable to perform some or all the duties of their regular job, even with reasonable accommodation.
- The NSHE's workers' compensation third party administrator verifies that the claim for benefits is not being contested through the hearing or appeal process.
- The NSHE's workers' compensation third party administrator verifies that the employee is eligible for vocational rehabilitation services as a result of work-related permanent restrictions.
- Once notified by our third party administrator that an employee is eligible for vocational rehabilitation, the NSHE has thirty days to offer a job compatible with the employee's permanent restrictions if such a position is available.
- The reemployment process within the NSHE is conducted with the assistance of the campus personnel office.
- If the employee with permanent restrictions is eligible for reemployment, he/she has reemployment rights for a period up to twelve months.
- If the NSHE is unable to offer a job in the thirty-day period after notice, the employee may be eligible for reemployment assistance through vocational rehabilitation. As part of the assistance provided, an employee may be referred to State Personnel for assistance with placement in another State position.

## **Supporting Documents**

- A. Rules for State Personnel Administration
  - NAC 284.600-6019 Disabilities Related to Work
  - NAC 284.630 Layoffs: Reemployment
- B. Nevada Industrial Insurance Act
  - NRS 616C.015 Notice of Injury
  - NRS 616C.020 Claim for Compensation
  - NRS 616C.150 Course of Employment
  - NRS 616C.475 Amount and Duration of Compensation
  - NRS 616C.555 Vocational Rehabilitation
  - NRS 616C.590 Eligibility for Services (Vocational Rehabilitation)
  - NRS 617.342 Notice of Occupational Disease
  - NRS 617.344 Claim for Compensation
  - NRS 617.358 Course of Employment
- C. Nevada Administrative Code
  - NAC 616C.583 Offer of Employment