

OFFICE OF THE CHIEF OF POLICE

NOTICE 2.2.3

April 1, 2019

TO: All Personnel

FROM: Chief of Police

SUBJECT: ESSENTIAL JOB FUNCTIONS AND MODIFIED DUTY ASSIGNMENT

The Department's ability to be effective and function properly is dependent on each one of us being at work and able to do our job. Each of us has an important role, regardless of classification, sworn or civilian; we all contribute to the Department's ability to deliver optimal service. If we are not at work doing our job, the impact can be felt by everyone, from the partner who will have to work harder to make-up for the missing employee, to the community member who must wait longer to have the police respond to their call. Each day several hundred of our employees can't be at work or are unable to perform their essential job functions because of an injury or an illness.

The health and wellbeing of our employees is important and the Department strives to promote physical fitness programs, collaborates with internal and external resources to provide physical and mental health services; however, although these are of the best intentions for prevention, the reality is injuries or illnesses will occur regardless. When an employee is injured or becomes ill, it's in the Department's best interest to help that employee return to their job as healthy and as quickly as possible. Sometimes that means the employee returning to work temporarily on a modified duty assignment (light-duty) when unable to perform the essential job functions.

It is also in the employee's best interest to return to work as healthy and as quickly as possible as there are time limits an employee can be off work due to injury or illness, or work in a modified duty assignment. The rules that describe the time parameters for Injured on Duty (IOD) or Sick status, and the process for an employee to return to work, in a modified duty assignment (light duty), either temporarily or permanently are described in Department Manual Section 3/711.75 and 3/711.76. These rules were put into place in compliance with applicable laws that protect the employee but at the same time fulfill our obligation to have a workforce able to deliver an adequate level of service.

Note: Only employees who were injured on or after August 1, 2006, are subject to the rules outlined in Department Manual Section 3/711.75 and 3/711.76. Employees who have a permanent work restriction from an injury or illness that was reported and documented prior to August 1, 2006, will continue to have their permanent work restriction accommodated until a time that their work status changes.

Included in the rules is an interactive process designed to ensure regular communication between the Department and the employee, the employee's treating physician, the City's Workers' Compensation Administrator and the City's Personnel Department. The interactive process is intended to ensure that the latest status updates are appropriately evaluated, facilitate the needs of the employee, and when it is determined by a medical professional that the employee will not fully recover, assist the employee into another job classification, or process for a disability or service retirement.

Note: During the interactive process an employee may elect to have a union or other representative included in the process.

An employee's return to their job after an illness or injury should be when the employee has sufficiently healed to be able to perform their essential job functions. When an employee comes back to work before they can fully perform their job functions (full-duty), they can be assigned to a modified duty (light-duty) assignment up to 180-days cumulative, provided they have approval from their treating physician.

180-day modified duty status start date

Effective **April 4, 2019**, any employee who is working with temporary medical restrictions that prevents them from performing the essential job functions for their classification will start a limited 180-day cumulative modified duty assignment. Employees who are unable to be cleared for duty without restrictions before the expiration of the 180-day limited modified duty assignment (expiring **September 30, 2019** if the 180-days are used consecutively), will be placed on IOD or State Rate Benefit to continue their recovery from the injury or illness. If the injury or illness is not duty-related, or all IOD or State Rate benefits have been exhausted, the employee will be placed on sick status or other appropriate status depending on the individual's accumulated time banks. Employees injured or becoming ill on or after April 4, 2019, and returning to work on a modified duty assignment will start a 180-day modified duty assignment on the date they return to work.

Note: Employees with a duty-related injury or illness, placed back on IOD or State Rate benefits after the 180-days of modified duty, must have sufficient IOD or State Rate time left. For duty-related injuries employees have one-year cumulative of IOD time, followed by one year cumulative of reduced salary State Rate Benefit. When on State Rate, employees may elect to use accrued sick, vacation, or other compensated time off to supplement their State Rate Benefit to receive the equivalent of their regular salary.

Permanent accommodation – Duty Evaluation Committee - Revised

Department Manual Section 3/711.76 describes how an employee may request a permanent reasonable accommodation. If such a request is denied, the employee can appeal the decision to the Duty Evaluation Committee (DEC). The composition and function of the DEC is being changed to allow for better oversight and transparency and will include a representative of the

employee's bargaining unit (union) to be part of the DEC. The DEC will be comprised of the Commanding Officer, Personnel and Training Bureau (Chair), the commanding officer of the concerned employee's bureau, the Employee Relations Administrator, the Department's Risk Manager, and a representative from the employee's union. If the employee making the request is a civilian employee, the Commanding Officer, Personnel and Training Bureau shall designate a Police Administrator (PA) II or PA III to act as the chair of the DEC.

The DEC will provide a recommendation to the Director, Office of Support Services (OSS), who will be the reviewing authority. The Director of OSS will then send the DEC's recommendation along with the review to the Chief of Police (COP) for a final decision. The COP retains final authority to accept or decline the recommendation from the DEC. The Director, OSS will notify the employee within seven days of the COP's decision.

Attached to this Notice are a list of Frequently Asked Questions (FAQs) and flow charts that describe the process. Additional information can be found on the Local Area Network, Home Page, on the left side, under Divisions-Sections-Units - Personnel Division. Inquiries can also be made telephonically to Personnel Division, Return to Work Section, at (213) 486-4710.



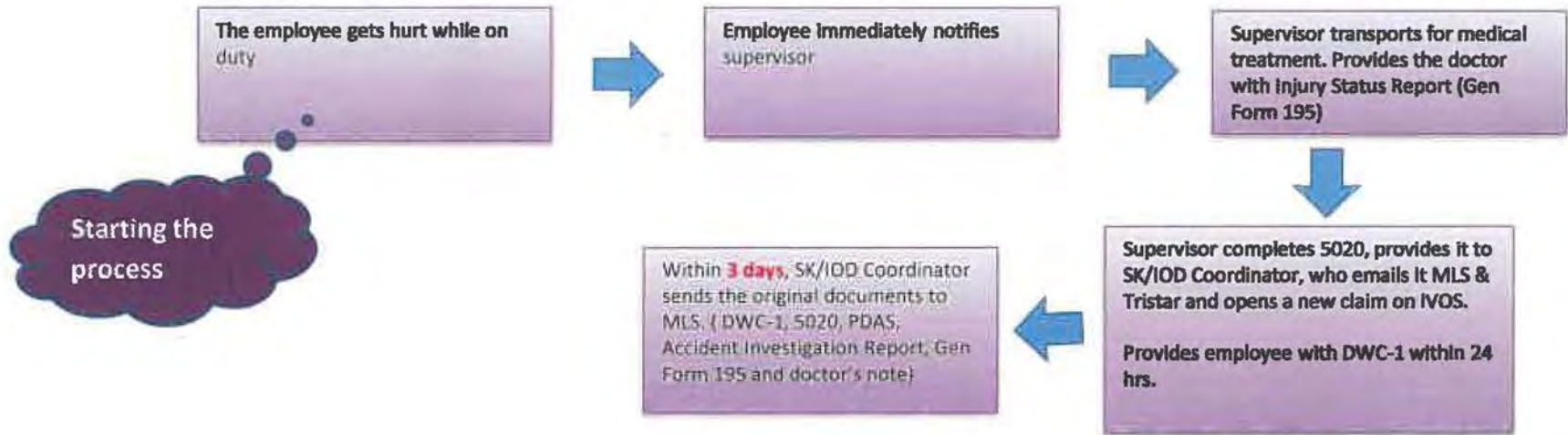
MICHEL R. MOORE
Chief of Police

DISTRIBUTION "D"

Attachments

IOD PROCESS

Job Related Injury Occurs



Third Party Administrators [TPA] (Tristar / Elite Claims)

When the claim is received by Tristar, within **24 to 48 hours**, Tristar is expected to make contact with the employee, the Department, and the employee's doctor.



Within **14 days** Tristar sends the injured worker a notice letting him/her know the status of their claim, whether it has been **accepted, denied, or delayed**.



The investigation of a claim can take up to **90 days**. During the investigation, usually only medical treatment is provided up to **\$10,000**. If the claim is not denied within **90 days**, the claim is presumed accepted.

REASONABLE ACCOMMODATION PROCESS

When employee returns Full Duty (no restrictions)

Sworn/Civilian employee receives full duty status from an AME, QME or Treating Physician. The employee is responsible for giving a copy to their Divisional SR/IDP Coordinator.



The SR/IDP Coordinator forwards the note to Medical Liaison Section.



Return to Work (RTW) receives the note and monitors and clears the temporary or permanent restriction for the respective injury/claim.



The employee will be returned to work full duty with no restrictions at their assignment division.

••Reintegration is required for employees who had extended leave beyond 365 days. The employee is not field eligible until they have completed the 2 weeks Reintegration course.

REASONABLE ACCOMMODATION PROCESS

When employee returns with Temporary Restrictions

Sworn/Civilian employee receives temporary work restriction(s), from an AME, QME or Treating Physician. The employee is responsible for giving a copy to their Divisional SK/IOD Coordinator.

The SK/IOD Coordinator forwards the note to Medical Liaison Section.

Return to Work (RTWS) receives the note and monitors and tracks all employee with temporary work restrictions.

A Supervisor shall meet with the employee and conduct the "interactive process" to assess the employees work restrictions and determine if the employee can be accommodated. The interactive should be started upon the return of the employee.

NO

If the employee cannot be accommodated at the division of assignment, the SK/IOD Coordinator will notify the Bureau to determine if the employee can be accommodated Bureau wide. If the Bureau is unable to accommodate, RTWS will contact the remaining Bureaus to determine if a temporary modified duty assignment is available Department wide.

YES

If the employee can be accommodated they are returned to work in a limited capacity based on their work restrictions. The employee will then be assessed by RTWS at the end of 45, 90, 150, 180 calendar days. All temporary restrictions will be accommodated by the Department for a maximum of 180 days.

At every 30 days, the employee is required to provide an updated doctor's note that will continue the temporary work restrictions in some form, which will start the process all over again. Or if the restriction is permanent, the interactive process for permanent reasonable accommodation will begin. Or provide a doctor's note that releases them full duty in which there is no need for a work accommodation.

REASONABLE ACCOMMODATION PROCESS

When employee returns with Permanent Restrictions

Sworn/Civilian employee receives permanent work restriction(s), from an AME, QME or Treating Physician.

The SK/IOD Coordinator forwards the note to Medical Liaison Section.

Return to Work Section (RTWS) receives the note and monitors and tracks all employee with permanent work restrictions.

NON-IOD, The employee is responsible for giving a copy to their Divisional SK/IOD Coordinator.

IOD, TPA sends permanent restrictions to Return to Work Section (RTWS)

When RTWS receives a permanent work restriction on a department employee, the employee is notified and the Interactive process begins. Return to Work Section, on behalf of the Department, will prepare a Reasonable Accommodation Assessment (RAA) form and determine if the employee can be accommodated. When an employee appeals a decision to accommodate, the Commanding Officer Personnel Division, shall request the Duty Evaluation Committee (DEC) to review the request and the Chief of Police will make the final accommodation decision.

The employee can be accommodated at the division of assignment or within their Bureau.

YES

NO

All Reasonable Accommodation Assessment documentation is retained by RTWS and the City's third party administrators (Tristar Group or Elite Claims).

If the employee chooses none of the provided options, a Medical Separation shall be considered. SWORN employees will proceed through the Board of Rights. CIVILIAN employees will proceed through Civil Service Commission.

If the restrictions do conflict with the essential functions of the job, the employee will not be accommodated and will be given the following options:

- Charter 1014 Transfer
- Resign
- Service Retirement
- Disability Retirement
- Re-Evaluated by AME, QME or Treating Physician

*A permanent work restriction with a date of notification prior to August 1, 2006, the employee is considered to be grandfathered and will be accommodated at their current division of assignment.
*An employee can appeal a decision to a denied accommodation. Such requests will be appealed to the Duty Evaluation Committee.

FAQ for Duty Evaluation/Essential Job Functions

1. **Q: When will the limited modified duty assignments take effect? Is there a grace period?**

A: The effective date is April 4, 2019. Everyone will be granted a new 180-day grace period, beginning on the effective date. Any new Injury or illness that occurs after April 4, 2019 and requires a temporary modified duty assignment, will be given a limited 180 days modified duty assignment.

2. **Q: What is a temporary modified duty assignment? And what is essential job functions?**

A: A temporary modified duty assignment is a temporary accommodation provided to employees who temporarily cannot perform the essential functions of their civil service position. Essential functions are the fundamental job duties of the employment position a person holds. These duties must be performed by the person in the position with or without an accommodation; otherwise, the absence of these duties would create an undue hardship on a business operation or change the proper classification for the position.

3. **Q: Is participation in this program mandatory?**

A: Yes, provided there are assignments that are available and compatible with the injury restrictions. Refusal to cooperate, will result in the employee's own personal time off (compensated and/or not uncompensated) until he or she is eligible to return to fully duty status.

4. **Q: What if I receive work restrictions which do not impact my essential job functions?**

A: Employees who can still perform all essential job functions at their classification will not be placed in a modified duty assignment. The restriction will be kept on record.

5. **Q: How long can I stay in a temporary modified duty assignment? And will I be accommodated?**

A: Employees working in a temporary modified duty assignment are assessed by the Departmental Personnel at 1, 45, 90, 150 and 180 calendar days. All temporary restrictions will be accommodated by the Department for a maximum of 180 days. An accommodation will first be attempted at your original division. If an accommodation cannot be found at your division, your bureau will accommodate you.

6. **Q: I come back to work modified duty after an IOD injury for 60 days. I then go off work for surgery due to the injury. Does my modified duty clock restart when I come back to work?**

A: No. Each employee has a 180 cumulative days of modified duty assignment time per Injury. In this example, when you come back to work, you would only have 120 days remaining of modified duty for this Injury.

7. **Q: What happens after 180 days?**

A: The employee will be placed off work on either IOD, State Rate, or sick status depending on the time available to them. The employee will be transferred to Personnel Division for administrative purposes until the employee can return to work and Personnel Division will assume monitoring responsibility while the employee is off work. Your position at your original division will be held vacant until you return to full duty status.

8. **Q: Can my current work schedule be affected by my current modified duty work status?**

A: Yes, your accommodation may result in a temporary change in work location, work scheduled, and/or work shift for the duration of the 180-time period.

9. **Q: What if my temporary assignment involves duties that are new to me?**

A: The supervisor will be responsible for providing the necessary training in order for the employee to successfully complete their new assignment.

10. **Q: Am I allowed to work outside employment? And am I allowed to work overtime if I am working in a temporary modified duty assignment? And am I allowed to work outside employment?**

A: Yes. With Department approval, you may continue to work or request outside employment, as well as, applying to any overtime opportunities. Your off-duty work or overtime work must not conflict with your medical restrictions and you must have approval from your commanding officer.

FAQ for Duty Evaluation/Essential Job Functions

11. Q: What if I need to use time off during my 180-day of modified duty?

A: Any compensated time off requested by the employee (i.e., Family Illness, Vacation, TO, Bereavement Leave, etc.) during the temporary modified duty assignment, will not extend the 180-day limit. A supervisor is also responsible for ascertaining that any sick time requested is not related to a workers' compensation injury.

12. Q: What happens when my doctor says I can return to work without restrictions?

A: The employee is responsible for (a) notifying his/her supervisor by phone within one business day of release by the doctor to return to full duty; and, (b) upon being released to full duty, providing a copy of the medical document to his supervisor (who will be responsible for forwarding it to the Return to Work Coordinator so that the employee can return to his regular assignment.

13. Q: Is there a grandfather clause?

A: Only employees who were injured on or after August 1, 2006, will be subject to the terms of Department Manual Section 3/711.75 and 3/711.76. Employees who have a permanent work restriction from an injury or illness that was reported prior to August 1, 2006 will continue to have their permanent work restriction accommodated until a time that their work status changes.

14. Q: What is the interactive process?

A: The interactive process is an ongoing dialogue between the employee and the Department for the purpose of identifying and providing a reasonable accommodation.

15. Q: How can I help the process go smoothly?

A: All employees have the responsibility of obtaining clear, work-related restrictions or any other changes in work status, from their doctor and providing them to their supervisor in a timely manner.