

## **City of Amarillo**

### **Personnel Policies and Procedures**

Policy Title: Modified Duty

Policy Number: 620

Effective Date: May 1, 2022

Approved by: Jared Miller, City Manager  
Mitchell Normand, Director of Human Resources

#### **I. PURPOSE**

Establish consistent and fair guidelines for all employees who have suffered an illness/injury on or off the job to return to work in a Modified Work Duty capacity.

#### **II. PROCEDURES**

##### **A. Modified Work Duty Assignments**

- i. A department/division may allow employees to return to work in a Modified Work Duty capacity only in accordance with this policy and procedures.
- ii. Employees who have had on-the-job injuries will take precedence for Modified Work Duty assignments over employees who have had non-job related injuries/illnesses.
- iii. Employees who have had on-the-job injuries may be authorized to work a modified work duty assignment in excess of the time limits established by this policy.
- iv. If an injured employee's treating physician determines that the employee can perform modified work duty, and provides written release with any restrictions noted, then the employee is to report to their supervisor for a job assignment. While working a modified duty assignment, timekeepers should use the appropriate payroll code designated for the modified duty hours worked.
- v. When Modified Work Duty is recommended, it is the Department Director's, or designee's, responsibility to determine if such work is available in their department. However, the injured employee may be required to work in a different department and perform duties not contained within his or her current job description. Training for these duties will be provided as necessary.
- vi. When Modified Work Duty is recommended and the department does not have Modified Work Duty, the Department Director, or designee, shall contact the Risk Management Department for assistance in locating a modified duty assignment for employees returning to work from a work-related injury/illness.
- vii. If an employee is assigned modified duty in a different department, the originating department is responsible for: (1) payment of the employee's salary; (2) reconciling the employee's time while working in a modified capacity in another department; and (3) imposing disciplinary

action for an employee's failure to adhere to the assigned schedule. The other department receiving the employee shall be responsible for imposing discipline for violations of City policy or departmental rules while the employee is assigned to such department.

- viii. It is the responsibility of the Department Director, or designee, administering the Modified Work Duty assignment to follow the physician's restrictions at all times.
- ix. It is the personal responsibility of the employee to follow the physician's restrictions at all times, both on-duty and off-duty. If the employee is asked to perform a task which is outside the restrictions outlined in the Modified Work Duty assignment or if the employee is having difficulty performing the assigned work, the employee must notify the Department Director immediately.
- x. An employee must participate fully in her/his recovery by keeping all physician and physical therapy appointments. Failure of the employee to keep physician and physical therapy appointments impede the continuation of the temporary modified work duty assignment.

#### B. Duration

- i. A temporary Modified Work Duty offer may be extended for an initial period up to 90 calendar days.
- ii. Each department/division should make it clear to the injured employee that there is a time limit an employee may work modified work duty.
- iii. An extension of modified duty beyond 90 calendar days may be requested by the Department Director and presented through the Director of Human Resources to the City Manager for a final decision. The approval beyond 90 calendar days will be based upon the assessment of the employee's ability to return to full duty within the immediate future and is deemed to be in the best interest of the City.
- iv. An employee requesting an extension beyond 90 calendar days must submit updated information from the treating physician and the Department Director must approve and submit the request for extension through the Director of Human Resources no fewer than five (5) business days prior to the 90<sup>th</sup> day period. Employees who sustained an on the job injury are required to provide to their supervisor status updates from their doctor as they are received by the employee. It is the full discretion of the City Manager to determine the length of an extension of Modified Work Duty.
- v. If the City Manager approves a request for an extension of Modified Work Duty assignment for up to an additional 90 calendar days, each subsequent request for an extension of Modified Work Duty must be submitted in writing through the Director of the Human Resources to the City Manager no fewer than five (5) business days prior to the last day of the current extension. The Department Director, or designee, must review the Physician's re-certification work status reports and re-submit a request for an additional 90 calendar day extension to the City Manager through the Human Resources Director. Temporary Modified Work Duty assignments will not exceed 180 days.
- vi. Modified Work Duty assignments are temporary and may be discontinued at any time. The following are examples of why a Modified Work Duty assignment may be terminated:

- a) The treating Physician releases the injured employee to full duty without any restrictions.
  - b) The treating Physician temporarily prohibits the injured employee from continuing with a Modified Work Duty assignment.
  - c) There is no longer any task available within the City which can be safely performed by the injured employee, given his/her current restrictions, skills, knowledge, and qualifications.
  - d) The injured employee fails to meet any performance measures of the assigned position.
  - e) The treating Physician indicates that the injured employee has reached maximum medical improvement and will or will not be able to return to his/her prior position.
  - f) An injured employee has been on a Modified Work Duty assignment for a period of 90 calendar days, and no extension was requested or it was denied.
  - g) The injured employee fails to comply with all rules, regulations, and stipulations of the Modified Work Duty program or policies of the City of Amarillo.
- vii. An employee who is unable to return to his/her regularly assigned duties at the end of the Modified Work Duty agreement may request a leave of absence through his/her department and may be offered Family Medical Leave if the employee's 12 weeks has not been exhausted (refer to FMLA policy). An employee who has exhausted available leave entitlement(s), the department has the option to approve or deny a leave of absence request in accordance with City leave policies. If the request for leave of absence without pay is denied, employment with the City may be terminated.

#### A. Medical Release

- i. A medical release from the employee's treating physician is required before an employee can return to work, whether the return is for regular duty or modified duty.
- ii. To be valid, the release must state whether the employee is able to return to regular work with or without restrictions.
- iii. It is the employee's responsibility to obtain a copy of the Physician's updated medical report.
  - a. It is the employee's responsibility to forward the Physician's updated medical report to his/her supervisor.
  - b. As deemed necessary, the supervisor will provide the physician's medical report to the Human Resources Department for non-work related injuries/illnesses or to the Risk Management Department for on the job injuries/illnesses. These reports shall be provided to the appropriate department the same day the employee returns to work and every time the employee is re-evaluated.

#### B. Failure to Return to Work From "On the Job Injuries or Illnesses"

- i. An employee who has sustained an on the job injury who is able to work in a Modified Work Duty capacity may be notified by the supervisor or a Risk Management representative, or designee, of a Modified Work Duty job offer.
- ii. If an employee does not return to work by the designated date stated in a letter offering modified duty or directing a return to regular duty, then that may be considered an automatic resignation from City employment. In addition to normal consequences of

resignation, the payment of workers' compensation temporary income benefits may also be affected.

C. Exceptions

- i. All requests to institute supplemental departmental modified duty policies must be presented to the Human Resources Director for review and approval prior to implementation.
- ii. The City Manager reserves all rights to modify or override this policy at any time. In the event provisions of this policy conflict with Federal and/or State law, the applicable governing law supersedes City policy.