

## **VII - 7.41 - POLICY ON MODIFIED DUTY**

(Approved by the Board of Regents on November 12, 1999; Amended October 9, 2015)

### **I. PURPOSE AND APPLICABILITY**

To establish a policy for all regular Nonexempt and Exempt employees that facilitates the early return to work of those employees recovering from an illness, injury or a pregnancy-related disability. This policy applies only to those employees who are expected to return to full duty in their previously held positions.

### **II. DEFINITIONS:**

Medical Restrictions - physical or mental limitations certified by a licensed or certified medical provider or an accredited Christian Science Practitioner.

Modified Duty - a temporary assignment of job tasks which is compatible with an employee's medical restriction(s) and supports the prompt return to full duty.

### **III. GENERAL PROVISIONS**

- A. It is the policy of the University System of Maryland to facilitate the prompt return to duty of employees absent due to illness, injury or a pregnancy-related disability. In an effort to ease the transition of recovering employees into a resumption of full duties without restrictions, modified duty is designed to provide for a temporary assignment.
- B. A modified duty assignment may be made to provide accommodations to a pregnant employee under Maryland Discrimination Law or a person with disabilities under the Americans with Disabilities Amendments Act (ADAAA) and shall be administered consistent with those laws, notwithstanding the provisions of this policy.
- C. Modified duty assignments shall not become permanent assignments. The total number of days that an employee can be assigned modified duties should not exceed 180 calendar days in any 12 month period. Exceptions to the 180 calendar day limitation may be approved by the Institution's Chief Human Resources Officer (CHRO) or designee.

### **IV. ELIGIBILITY FOR MODIFIED DUTY RESULTING FROM ILLNESS, INJURY OR PREGNANCY-RELATED DISABILITY**

- A. In an instance where an employee requests modified duty due to illness or injury, or requires an accommodation for a pregnancy-related disability, the employee may be required to provide an original certificate from a medical provider which authenticates the period of illness or injury and includes:

1. The date or dates the employee was seen by the medical provider;
  2. a diagnosis of the illness or injury;
  3. whether the medical provider recommends that the employee not report to work, the period of time involved, and the reason the illness or injury prevents the employee from working even with reasonable accommodation;
  4. a prognosis for recovery and the estimated date when the employee will be able to return to full duty;
  5. the medical restrictions that need to be considered when identifying a modified duty assignment;
  6. the authorized signature of the following licensed or certified medical providers: Physician, Physical Therapist; Clinical Psychologist; Dentist; Optometrist; Oral Surgeon, Chiropractor, Podiatrist; Nurse Practitioner; Nurse Midwife; Physician's Assistant or an accredited Christian Science Practitioner.
- B. An employer may require an employee requesting an accommodation for a pregnancy-related disability to provide a certification from the employee's health care provider concerning the medical advisability of a reasonable accommodation to the same extent a certification is required for other temporary disabilities. A certification shall include:
1. The date the reasonable accommodation became medically advisable;
  2. The probable duration of the reasonable accommodation; and
  3. An explanatory statement as to the medical advisability of the reasonable accommodation.
- C. When an employee is required to provide a certificate as described above, the employee shall submit the certificate to a supervisor, the CHRO or designee or a designated institutional medical officer.
- D. The employee may be required to provide additional original certificate(s) at reasonable intervals based upon the nature of the illness, injury or pregnancy disability.
- E. In the event that the medical restrictions listed on the original certificate prevent the employee from performing any available modified duty assignment, the institution may arrange for a second medical opinion. This provision does not limit the institution's right under any other policy to require a second medical opinion.

**V. ASSIGNMENT TO MODIFIED DUTY**

- A. Upon receipt of the original certificate, in conjunction with the employee's Dean, Department Head, or Chairperson, the institution's CHRO or designee will determine whether there exists an appropriate modified duty assignment consistent with reasonable accommodation for medical restrictions, the department's staffing needs and relevant fiscal considerations. In the event an appropriate assignment cannot be identified in the employee's department, the institution's President or designee may assign the employee to another department that has an appropriate modified duty assignment during this period.
- B. An employee on modified duty will not be assigned to perform duties of a level higher than the employee's regular classification.
- C. Modified duty employees may experience some temporary changes from their regular assignments in the areas of daily work hours, scheduled shifts, regular days off, and holiday leave.
- D. Modified duty assignments will not alter the employees' bi-weekly salary but may affect shift differential pay.
- E. The assignment will be evaluated periodically, and may be adjusted based upon the employee's medical progress.
- F. The institution may, at any time, arrange for a second medical opinion by an institution named physician to verify the recovering employee's need to continue modified duties.
- G. If the institution determines that an appropriate modified duty assignment does not exist, the employee shall remain on paid leave or Leave of Absence Without Pay as appropriate until such time as the institution can identify an appropriate placement or the employee's condition improves sufficiently to allow a return to work.
- H. If the employee refuses a modified duty assignment, accident or sick leave may be terminated. The employee may be allowed to use other forms of paid leave, be terminated, or be placed on a Leave of Absence without Pay. Other administrative sanctions may also be applied.

**VI. WORKERS COMPENSATION**

- A. In the case of a work-related injury, modified duty may be authorized if determined to be appropriate by the Injured Workers Insurance Fund (IWIF).
- B. Any employee who is injured in the line of duty and who refuses modified duty shall be reported to the State of Maryland's Workers Compensation Insurer , and a

request shall be made for a suspension of lost time benefits. Leave will be consistent with VII – 7.40 Policy on Accident Leave for Nonexempt and Exempt Staff Employees.

**IMPLEMENTATION PROCEDURES:**

Each President shall identify his/her designee(s) as appropriate for this policy, develop procedures as necessary to implement this policy, communicate this policy and applicable procedures to his/her institutional community, and post it on its institutional website.