



**Eastern  
Kentucky  
University**  
**Policy and Regulation Library**

Human Resources Regulation: 8.3.9HRR

Responsible Office(s): Office of Human Resources

Effective: October 5, 2015

Next Review Date: Fall 2020

## **Human Resources Regulation: 8.3.9HRR**

### **Return to Work Program**

#### **Statement**

Eastern Kentucky University has established a Return to Work Program to facilitate the opportunity for an Employee receiving Workers' Compensation benefits to return to work in a Modified Assignment for a defined period of time.

The goals of the University's Return to Work Program are:

- Foster and enhance the physical and psychological recovery process for the injured Employee;
- Enhance the injured Employee's sense of confidence and well-being;
- Reduce medical, disability and lost time costs;
- Reduce indirect accident costs;
- Minimize the chance of re-injury;
- Encourage cooperation between Employee and management; and
- Establish a more stable workforce.

#### **Entities Affected**

All University Employees

#### **Procedures**

Whether an Employee is able to participate in the Return to Work Program is at the discretion of the Employee's Supervisor, the Office of Human Resources, and the Supervisor of the Modified Assignment. Each situation will be reviewed on a case-by-case basis taking into consideration the circumstances of the Employee and their limitations to complete their assigned Modified Assignment. If no Modified Assignment is

available, the Employee will not be allowed to return to work at their Regular Position until they are able to perform the Essential Job Functions of their Regular Position. The Return to Work Program will be limited by the work available and the longevity of the Employee's work restrictions. Employees are not guaranteed a Modified Assignment however; it is the intent of this Regulation to attempt to place all Employees with Modified Assignment needs in appropriate assignments.

## **A. Eligibility and Usage**

Any Employee is eligible to participate in the Return to Work Program if the Employee:

- a. Sustained a work-related occupational injury or disease that "arose out of" and "in the course of" employment as defined by the Kentucky Workers Compensation Act (KRS Chapter 342);
- b. Is temporarily unable to perform his/her Essential Job Functions due to a job related injury or illness as determined by his/her treating physician; and
- c. Is capable of carrying out work of a modified nature as evidenced by a written statement from a qualified physician with the expectation of returning to the Employee's Regular Position within ninety (90) calendar days (per incident) from first day of the Modified Assignment. The expectation of return to work may be extended beyond ninety (90) days upon review by the Director of Environmental Health and Safety/Risk Management and Insurance and the Office of Human Resources on case-by-case basis.

## **B. Program:**

The Return to Work Program is intended to keep Employees in the working environment (at his/her rate of pay in the Employee's Regular Position) in a Modified Assignment and contributing to University productivity.

Consistent with Kentucky Workers' Compensation law, the University will make reasonable efforts to return to the workplace Employees who have sustained job related injuries or illnesses and who are temporarily prevented from returning to their Regular Position.

Temporary and student Employees may participate in this Return to Work Program at the discretion of the employing Work Unit. However, any Modified Assignments will be limited only to the duration of the Employee's temporary or student Regular Position.

Placement in a Modified Assignment is not a permanent reassignment. The Modified Assignment will continue until the Employee reaches Maximum Medical Improvement (MMI) or is released to return to his/her Regular Position by their treating physician. In any case, all Modified Assignments are for no more than 90 days, but may be extended upon review by the Director of Environmental Health and Safety/Risk Management and Insurance and the Office of Human Resources on a case-by-case basis.

## C. Procedure

1. Employees must notify their Supervisors immediately when a job related injury or illness occurs. The Supervisor will report the injury or illness to the University Claims Specialist. Once it is determined by the Supervisor and University Claims Specialist that an Employee has sustained a work related injury and the Workers' Compensation paperwork has been completed by the Employee and submitted to the University Claims Specialist, the Supervisor, along with the Office of Human Resources, will determine if a Modified Assignment is available within the Employee's Work Unit. If the Employee qualifies for a Modified Assignment, the University Claims Specialist will need to be notified that the Modified Assignment has been approved and the Employee's start date. The University Claims Specialist will forward the notification to the Workers' Compensation Insurance Adjuster who will verify that the Employee is not compensated by both pay from the Employee's Regular Position and also Workers' Compensation.
2. To assist the Office of Human Resources and Supervisor in placing the Employee in a Modified Assignment, the Employee must provide a medical release completed by their treating physician. This release shall indicate whether or not the Employee may return to work with restrictions or limitations and the specified time period the restrictions or limitations should be observed. The Supervisor, University Claims Specialist, and Office of Human Resources will communicate to clarify and obtain specifications on physical restrictions relative to job duties, responsibilities, work availability, and workload demands. This communication will assist the University in determining appropriate placement of the Employee in a Modified Assignment.

The University will make a reasonable effort to return the Employee to a Modified Assignment within the Employee's Regular Work Unit.

3. If it is determined that no Modified Assignments are available in the Employee's Regular Work Unit, the Office of Human Resources will make a reasonable effort to place the Employee in a Modified Assignment in another Work Unit based upon available Modified Assignments at the time, if any.

The University is not obligated to create Modified Assignments if no such assignments are available. If there are no Modified Assignments available, the Employee will adhere to the requirements of the Workers' Compensation Program without the option of a Modified Assignment.

4. If a Modified Assignment in the Regular Work Unit or another Work Unit is available, the Employee will be notified in a Modified Assignment Agreement regarding the assignment and the duration. The Employee must accept or decline in writing, the Modified Assignment.

If the Employee refuses the Modified Assignment, the University is not obligated to provide alternatives. The Employee may be subject to the cancellation of income benefits under Workers' Compensation.

Failure to report for work on the start date of the Modified Assignment will be interpreted as a refusal of the assignment.

5. Wages in a Modified Assignment will continue at the Employee's current rate at his/her Regular Position.
6. Employees may be assigned to a work schedule or shift other than their Regular Position's work schedule or shift.
7. In the event that an Employee's treating physician determines that the Employee's injury/illness has resulted in permanent disability, the Employee should notify his/her Supervisor, Office of Human Resources, University Claims Office, and the ADA/Section 504 Compliance Officer for a review under [Establishing Reasonable Accommodations Under the Americans with Disabilities Act/Section 504 of The Rehabilitation Act Compliance Regulation and Appeal Procedures 1.4.4R](#). If there are other available positions for which the Employee is qualified, the Office of Human Resources will assist the Employee in applying for those vacancies.
8. In the case of a permanent disability, and the Employee can no longer perform the Essential Job Functions of their Regular Position with or without a [Reasonable Accommodation \(as defined in 1.4.4R\)](#), the Office of Human Resources will assist the Employee in applying for Long Term Disability and any other programs the Employee would be eligible to receive.

## Definitions

- **Employee:** Full-time, part-time, and student workers.
- **Essential Job Functions:** The primary job functions or tasks that an Employee must be able to perform with or without a Reasonable Accommodation. The Essential Job Functions are listed by job title with the Office of Human Resources.
- **Maximum Medical Improvement:** A release after a work related injury or illness with permanent restrictions on the type of work the Employee can perform. This is a treatment plateau at which no fundamental, functional or physiological change can be expected within reasonable medical probability in spite of continuing medical or rehabilitative procedures.
- **Medically Cleared:** A release from the Employee's treating physician after a work-related injury or illness with no restrictions allowing the Employee the ability to return to their Regular Position and perform all the Essential Job Functions.
- **Modified Assignment:** A temporary work assignment created under this Policy, which takes into account the medical restrictions of the injured Employee. The assignment will run no longer than 90 days (but may be extended on a case-by-case basis). The assignment will end once the injured Employee is Medically Cleared to return to their original Regular Position or if a permanent disability is given. The acceptance of the assignment is documented in the Modified Assignment Agreement.

- **Reasonable Accommodation:** Modifying a job process or work environment to enable an otherwise qualified individual with a disability to perform the essential functions of the job.
- **Regular Position:** For purposes of this regulation, the position the Employee held before accepting the Modified Assignment.
- **Work Unit:** A department or sub-department.

## Responsibilities

- ADA/Section 504 Compliance Officer
  - Reviews permanent disability matters under [1.4.4R \(Establishing Reasonable Accommodations Under the Americans with Disabilities Act/Section 504 of The Rehabilitation Act Compliance Regulation and Appeal Procedures\)](#).
- Director of Environmental Health and Safety/Risk Management and Insurance
  - Consults with University Claims Specialist and Office of Human Resources to determine eligibility for Modified Assignments.
- Director of Human Resources
  - If appropriate, work with Workers' Compensation designee and injured Employee to identify and offer a Modified Assignment, if available.
- Employee
  - Report any injury/illness immediately to Supervisor;
  - Complete all needed paperwork as soon as possible;
  - Follow safety rules and practices; Maintain contact with Supervisor and the University Claims Specialist;
  - Provide the University Claims Specialist with updates, with medical reports on health condition and treatment upon request; and
  - Comply with Modified Assignment.
- Supervisor
  - Initiate immediate medical treatment for injured Employee when necessary;
  - Report the injury to University Claims Specialist and complete all appropriate paperwork as soon as possible;
  - Inform Employee in Modified Assignment of work rules and practices;
  - Maintain contact with the injured Employee and the University Claims Specialist; and
  - Work with the University Claims Specialist and the Office of Human Resources to identify or develop Modified Assignments, within medical restrictions for the affected Employee.
- University Claims Specialist
  - Maintain contact with injured Employee and his/her treating physician and Supervisor;
  - Complete and follow-up on all necessary paperwork;

- Be the liaison between the Employee, workers' compensation, treating physician, Supervisor, and Office of Human Resources to provide the Employee with the necessary assistance;
- If appropriate or necessary, help develop and monitor a Modified Assignment plan for the injured Employee.

**Statutory or Regulatory References**

KRS 342.00

**Relevant Links**

[Establishing Reasonable Accommodations Under the Americans with Disabilities Act \("ADA"\)/Section 504 of the Rehabilitation Act Compliance Regulation and Appeal Procedures](#)

[Family and Medical Leave Covered Servicemember Family Leave; and Qualifying Exigency Leave](#)

[Modified Assignment Agreement](#)

**Regulation Adoption Review and Approval**

Regulation Revised

<u>Date</u>	<u>Entity</u>	<u>Action</u>
<b>October 5, 2015</b>	<b>President Michael Benson</b>	<b>Adopted</b>
August 25, 2015	Provost Council	Approved
May 4, 2015	Faculty Senate	Approved
March 13, 2015	Staff Council	Approved

Regulation Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
<b>September 18, 2013</b>	<b>President Michael Benson</b>	<b>Adopted</b>