

# General Order

## Houston Police Department



ISSUE DATE:

May 1, 2019

NO.

300-10

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 300-10, February 27, 2015

### SUBJECT: TRANSITIONAL DUTY ASSIGNMENT

#### POLICY

The department shall attempt to provide opportunities for injured or ill employees to return to productive work as soon as possible in accordance with Texas Department of Insurance (TDI) regulations and City of Houston Executive Order 1-33.

Efforts shall be made to reassign employees to *transitional duty* if they are unable to perform their regular duties because of personal illness or injury, whether occupational or non-occupational in nature. Transitional duty is not intended to permanently replace an employee's regular duties.

This General Order applies to all employees.

#### DEFINITIONS

**Bona Fide Offer of Employment (BFOE).** A written offer of a transitional duty assignment that abides by requirements set by the TDI and that contains work restrictions given by the approved City of Houston and TDI medical provider.

**Occupational Injury.** An injury, disease, or illness sustained in the course and scope of employment with the City of Houston.

**Texas Workers' Compensation Work Status Report (DWC Form-73).** A report by an occupationally injured employee's *treating physician* indicating the work status and activity restrictions of the injured employee. The DWC Form-73 also serves as a release to any type of transitional duty or a return to full duty with no restrictions. See the DWC Form-73 on the department's Intranet Portal for complete details.

**Third Party Administrator (TPA).** Independent administrator contracted by the City of Houston to be responsible for the adjudication of workers' compensation claims including payments to recovering employees and health care providers in compliance with the law.

**Transitional Duty.** A process that allows an injured or ill employee to return to work in a less than full-duty capacity.

**Transitional Duty Assignment.** A temporary work assignment designed to allow an employee who is injured, ill, or unable to work at full-duty capacity to perform tasks that are within the specific restrictions set by the employee's *treating physician*.

**Treating Physician.** A physician who is directing the medical treatment of an injured or ill employee.

**Treating Physician's Statement.** A document provided by an authorized health care provider after an office visit with an injured or ill employee. The treating physician's statement must contain the date of the office visit, the name and contact information of the health care provider completing the statement, the current work status of the injured or ill employee, the range of dates covered by the statement, and the employee's work and/or activity restrictions or a statement with an effective date that the employee can return to work without restrictions. A treating physician's statement does not include information related to a specific diagnosis.

## **1 OCCUPATIONAL INJURY OR ILLNESS**

When applicable, efforts shall be made to provide an employee with a transitional duty assignment when the employee is unable to perform his essential job duties due to an occupational injury or illness. Employees with occupational injuries or illnesses shall be given priority in transitional duty assignments. If adequate space and work is available, transitional duty assignments may be offered to employees who are recovering from non-occupational injuries or illnesses.

### **Initial Request for Transitional Duty Due to Occupational Injury or Illness**

Within 24 hours after being released by the treating physician to work transitional duty (also known as light duty), the employee shall provide his immediate supervisor a *Texas Workers' Compensation Work Status Report* (DWC Form-73) or the *treating physician's statement*. Utilizing this information, the supervisor shall determine if an appropriate transitional duty assignment is available at the employee's *regular assigned division*.

The supervisor shall immediately send an email to the concerned division commander through the chain of command and include the following:

- a. Employee's name, employee number, classification, regular assignment, and duty requirements.
- b. A request for a transitional duty assignment for the employee.
- c. Detailed description of the work restrictions placed on the employee by the treating physician.
- d. The transitional duty assignment to be offered to the employee including:
  1. Shift start and end time.
  2. Number of hours scheduled each week.
  3. Regular days off.
  4. Location of assignment.
  5. Detailed description of duties to be performed.

6. Confirmation that the job duties of the proposed transitional duty assignment fall within the scope of the employee's work restrictions as set by the treating physician.
  - e. Anticipated period of time the employee will be on transitional duty, if known.

The division commander shall reply to the email approving or rejecting the transitional duty assignment. If approved, the employee shall start at the earliest date allowed by the treating physician. If rejected, the division commander shall advise the reason for the rejection and should either provide an alternate transitional duty assignment that falls within the scope of the employee's work restrictions as set by the treating physician or explain why a transitional duty assignment is not being offered.

Once a transitional duty assignment is approved by the division commander, the supervisor shall immediately provide the employee with a *bona fide offer of employment* (BFOE) that conforms to the employee's work and/or activity restrictions as set by the treating physician. The BFOE correspondence template is located on the department's Intranet Portal.

Once the BFOE is completed, the supervisor shall immediately email the DWC Form-73 or the *treating physician's statement* and the signed BFOE to the department's Health and Safety Unit (HSU). Then within 24 hours after the BFOE is signed, the supervisor shall send the following documents to HSU via interoffice mail.

- f. Original BFOE indicating acceptance or decline of BFOE.
- g. Original DWC Form-73 or *treating physician's statement*.
- h. Copy of the concerned Family and Medical Leave Act (FMLA) event correspondence accepting or declining FMLA coverage. For additional information on FMLA, see General Orders 300-09, **Absence from Duty – Classified** and 900-01, **Absence from Duty – Civilian**.

At the earliest opportunity, HSU shall send a reply if there are any concerns or if additional information is needed.

#### **Approval of Transitional Duty Due to Occupational Injury or Illness**

Once the concerned division commander has approved an employee to work transitional duty, supervisors shall ensure that the following actions are taken:

- a. Notify the division's timekeeper.
- b. Add the injured or ill employee's name to the division's *Injured or Ill Employees and Transitional Duty Report*. This form is available on the department's Intranet Portal.

If transitional duty is approved, it is limited to 90 calendar days. See section 5 of this General Order for information on how to request extensions of transitional duty.

If there are any changes to the transitional duty status of an employee (other than returning to full duty) or an employee develops problems related to a transitional duty assignment, the supervisor shall contact HSU to determine the appropriate actions to be taken.

While on transitional duty status, an employee is responsible for submitting a copy of a completed DWC Form-73 or *treating physician's statement* to his regular assigned supervisor every 30 calendar days or after every visit to the treating physician (whichever is more frequent).

Employees who fail to report to a transitional duty assignment may be subject to loss of benefits. Employees on transitional duty status shall cooperate fully and in a timely manner with all reasonable requests by the City of Houston, *Third Party Administrator* (TPA), or treating physician regarding:

- c. Second and third opinion requests.
- d. Providing all medical documents.
- e. Providing any other information as needed or directed.

## **2 NON-OCCUPATIONAL INJURY OR ILLNESS**

Employees with non-occupational injuries or illnesses may also request to be placed on a transitional duty assignment.

### **Initial Request for Transitional Duty Due to Non-Occupational Injury or Illness**

The initial request for a transitional duty assignment due to a non-occupational injury or illness shall be made via email or in person to the employee's immediate supervisor. The employee shall provide the supervisor with a copy of the *treating physician's statement* with prescribed work restrictions and an estimated date for return to full duty or an estimated time that the next physician's appointment will occur.

Upon receiving an employee's initial request for a transitional duty assignment and the *treating physician's statement*, the supervisor shall submit an email to the employee and their division commander copying their chain of command to the level of division commander and include the following:

- a. Employee's name, employee number, classification, regular assignment, and duty requirements.
- b. A request to the division commander for a transitional duty assignment for the employee.
- c. Detailed description of the work restrictions placed on the employee by the treating physician.
- d. If recommending a specific assignment and/or location for the employee to perform the transitional duty assignment (e.g., at the division working a desk or an administrative position), then the following information regarding the proposed transitional duty assignment must be provided:
  1. Shift start and end time.

2. Number of hours scheduled to work each week.
  3. Regular days off.
  4. Location of assignment.
  5. Detailed description of the duties to be performed.
  6. Confirmation that the job duties of the proposed transitional duty assignment fall within the scope of the employee's work restrictions as set by the treating physician.
- e. Anticipated period of time that the employee will be on transitional duty status, if known.

The employee shall reply to all in the email either accepting or rejecting the transitional duty assignment.

The division commander shall reply to the email approving or rejecting the transitional duty assignment. If approved, the employee shall start at the earliest date allowed by the treating physician. If rejected, the division commander shall advise the reason for the rejection and should either provide an alternate transitional duty assignment that falls within the scope of the employee's work restrictions as set by the treating physician or explain why a transitional duty assignment is not being offered.

Additionally, the supervisor shall forward the *treating physician's statement* with prescribed work restrictions to the division commander for filing in the division's transitional duty file.

#### **Approval of Transitional Duty Due to Non-Occupational Injury or Illness**

Once the concerned division commander has approved an employee to work transitional duty, supervisors shall ensure that the following actions are taken:

- a. Notify the division's timekeeper.
- b. Add the injured or ill employee's name to the division's *Injured or Ill Employees and Transitional Duty Report*.
- c. Place copies of all paperwork related to the transitional duty request in the division's transitional duty file.

If transitional duty is approved, it is limited to 90 *calendar* days. See section 5 of this General Order for information on how to request extensions of transitional duty.

If there are any changes to the transitional duty status of an employee (other than returning to full duty) or an employee develops problems related to a transitional duty assignment, the supervisor shall contact HSU to determine the appropriate actions to be taken.

### 3 TRANSITIONAL DUTY ASSIGNMENTS

#### Classified Employees

Classified employees who request a transitional duty assignment may be offered a position in:

- a. Their *regular assigned division*.
- b. Their current command.
- c. Teleserve Unit.
- d. Any other assignment in the department with approval from the requesting employee's assistant chief.

#### Civilian Employees

Civilian employees who request transitional duty may be reassigned in the following order of availability:

- a. In their *regular assigned division*.
- b. In their current command.
- c. Elsewhere in the department with approval from the requesting employee's assistant chief.

#### Additional Requirements

If there is not a transitional duty assignment available in the employee's *regular assigned division*, the supervisor shall contact HSU.

Employees on transitional duty status shall contact their supervisor and HSU whenever any change in assignment or status occurs. In addition, occupationally injured or ill employees shall inform the *Third Party Administrator* of any status change.

### 4 TRANSITIONAL DUTY RESTRICTIONS

Employees on transitional duty status shall not wear any portion of a department issued uniform. Employees in plainclothes shall not display their official police identification card, badge, or weapon in any location other than a Police Department facility or complex.

Employees on transitional duty status shall not work extra employment. For more details on extra employment refer to General Order 300-14, **Extra Employment**.

Employees on transitional duty status shall refrain from injurious or strenuous activity that may hinder recovery or return to full duty. Such employees shall comply with the treating physician's recommendations to recuperate.

**5 EXTENSION OF TRANSITIONAL DUTY**

Occupationally and non-occupationally injured or ill civilians who have been on transitional duty status for 90 *calendar* days may request an extension of transitional duty up to an additional 90 *calendar* days to a maximum of 180 *calendar* days.

Occupationally and non-occupationally injured or ill classified employees who have been on transitional duty status for 90 *calendar* days may request extensions of transitional duty in increments up to 90 *calendar* days each in accordance with City of Houston Executive Order 1-33.

When an employee requests an extension of transitional duty status, the request shall be in writing via their chain of command to the level of assistant chief. The request shall be submitted at least 14 *calendar* days prior to the date on which the requested additional transitional duty time is to begin. Extensions for transitional duty time can be approved by only an assistant chief or higher ranking executive.

**6 RETURNING TO FULL-DUTY STATUS**

When an employee is released to full-duty status by the treating physician, the employee shall request to return to full-duty status via the following guidelines:

For *occupational* injuries or illnesses, the employee shall provide his regular assigned supervisor the completed DWC Form-73 or *treating physician's statement* indicating the date the employee can return to work with no restrictions. The supervisor shall accept the paperwork and send an email to the employee's chain of command through the level of division commander advising of the return to full duty along with the date the physician is returning the employee to full duty. The supervisor shall immediately email the DWC Form-73 or *treating physician's statement* to HSU; and within 24 hours after receiving the document, the supervisor shall send the document and all completed forms directly to HSU via interoffice mail.

For *non-occupational* injuries or illnesses, the employee shall provide his regular assigned supervisor the *treating physician's statement* indicating the date the employee can return to work with no restrictions. The supervisor shall accept the paperwork and send an email to the employee's chain of command through the level of division commander advising of the return to full duty along with the date the physician is returning the employee to full duty. If the employee's transitional duty assignment was outside the employee's *regular assigned division*, the supervisor shall also email the appropriate supervisors for the transitional duty assignment advising that the employee is returning to full duty along with the effective date. The supervisor shall send all completed documents to the employee's *regular assigned division* commander for filing in the division's transitional duty file.

With the division commander's approval, employees may be returned to their previous assignment.

Employees will not lose benefits or privileges except as may be imposed by state law, City ordinance, or department policy.

## **7 ADMINISTRATIVE PERSONNEL COMMITTEE**

The Administrative Personnel Committee (APC) is a departmental committee that is responsible for ensuring compliance with all federal, state, and local laws with respect to determining whether an employee is physically and psychologically fit for duty. APC coordinates with employees who because of personal injury, illness, or psychological issues are unable to perform their essential job duties.

## **8 DIVISION COMMANDERS' RESPONSIBILITIES**

In addition to the other responsibilities outlined in this General Order, division commanders are responsible for initiating a written referral to the APC chair about an employee who, because of personal injury, illness, or possible mental issue:

- a. Appears to be unable to perform all of the essential job functions and such condition has lasted or is expected to last more than 90 *calendar* days.
- b. Is unable to work or is working at less than full capacity for more than 90 *calendar* days.

The above referral requirement applies whether or not the employee is on transitional duty and whether the employee is experiencing an occupational or non-occupational injury or illness. Referral to APC is not required for pregnant employees. Division commanders may also refer an employee to APC before 90 *calendar* days if warranted.

In addition to a description of the injury, illness, or possible mental issue forming the basis for the referral, the division commander's correspondence should also include:

- c. The date the FMLA packet was provided to the employee and if the employee accepted or declined the FMLA coverage.
- d. The number of days the employee was or has been absent from work as a result of the injury, illness, or mental issue.
- e. If applicable, information on the employee's transitional duty status (date started, location of assignment, duties and responsibilities of assignment).

Division commanders shall also ensure that the division's *Injured or Ill Employees and Transitional Duty Report* is updated, completed, and forwarded to HSU each Friday by the time indicated on the current form. Division commanders shall list on the above report all occupationally or non-occupationally injured or ill employees under their command who during the reporting week either were on a transitional duty assignment or lost time from work per the instructions on the report.

All division commanders shall submit an *Injured or Ill Employees and Transitional Duty Report* each Friday to HSU even if there are no employees listed.

All division commanders shall maintain a transitional duty file separate from divisional personnel files to store all paperwork related to transitional duty requests.

**9 HEALTH AND SAFETY UNIT (HSU)**

HSU shall:

- a. Maintain a current list of employees on transitional duty status.
- b. Serve as a consulting resource regarding the placement of employees on transitional duty status.

With approval from the Chief of Police, HSU may establish additional procedures regarding transitional duty. Whenever such procedures are added or changed, HSU shall provide notice to the department and its employees.

**10 REFERENCE MATERIAL**

**City of Houston Executive Order 1-33, *Work Ability Guidelines***

**Code of Ordinances City of Houston, Texas, §14-185**

**28 Texas Administrative Code, Chapters 102-180, Texas Workers' Compensation Rules**

**Texas Local Government Code, §143.1115**



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