

## Kitsap County Transitional Duty Assignment Policy

### I. Purpose

This policy establishes standards for the administration of transitional duty assignments. Transitional duty consists of limited duration work assignments for employees who have temporary medical restrictions which functionally limit them from performing one or more of their essential job functions.

This policy does not create an employment contract or term or limit the reasons for dissolution of the employment relationship. This policy does not constitute an expressed or implied contract, and it is simply a statement of Kitsap County policy, which cannot form the basis for a private right of action.

#### **Applicability and Audience**

This policy applies to the departments under the direction of the Board of County Commissioners. Other Elected Officials may elect to adopt this policy.

### II. Definitions

Essential Functions: A fundamental job duty of a position an employee must be able to perform, with or without reasonable accommodation.

Medical Restriction: A functional physical, sensory, or mental limitation which necessitates modifications or adjustments to the work environment, or to the manner or circumstances under which the position held is customarily performed, that enable a qualified employee to perform the essential functions of that position. The medical restriction must be documented by a licensed health care provider. The restrictions may be the result of occupational or non-occupational medical conditions. Non-occupational medical conditions may include illness resulting from or occurring during pregnancy.

Indefinite Medical Restriction: A medical restriction that is documented by a licensed health care provider with an unknown duration or resolution.

Permanent Medical Restriction: A medical restriction that is documented by a licensed health care provider as permanent, fixed and stable, and/or not expected to improve.

Prolonged Medical Restriction: A medical restriction that is documented by a licensed health care provider to be present for over six months.

Temporary Medical Restriction: A medical restriction that is documented by a licensed health care provider to improve or resolve within six months.

Non-occupational Medical Condition: An injury or illness that did not result from the employee performing his or her job duties. This includes injuries and illness for which a Workers' Compensation claim was filed and subsequently denied.

Occupational Medical Condition: An injury or illness that resulted from the employee performing his or her job duties and for which a Workers' Compensation claim has been filed.

Transitional Duty: Limited duration work assignments for employees who have temporary medical restrictions that preclude them from performing one or more essential job functions. Transitional duty assignments include alternative duty and restricted duty.

Alternative Duty (e.g., "light duty"): Assigned work for employees who are unable to perform the essential functions of their regular position. Alternative duty is not part of the employee's regular body of work.

Restricted Duty: Assigned work that includes the temporary elimination of job functions the employee is unable to perform due to temporary medical restrictions.

### **III. Policy**

#### **A. Providing Transitional Duty**

1. Transitional duty may be offered to an employee when all the following conditions are met:

- a. The employing official or designee receives certification of temporary medical restrictions documented by a licensed health care provider; and
- b. It has been determined that the temporary medical restrictions functionally limit the employee from performing one or more essential functions of his or her position; and
- c. It is possible and reasonable to temporarily remove one or more essential job functions from the employee's regular position or provide the employee with alternative work.

2. When transitional duty is available, it may be offered for a defined period of time, not to exceed six calendar months per incident, injury, illness and/or workers' compensation claim. The availability of transitional duty is determined by:

- a. The duration of the transitional duty and whether it is unreasonable or would cause an undue hardship for the department; and
- b. The duration of the employee's temporary medical restrictions; and
- c. The continued availability of work within the employee's temporary medical restrictions.

3. Transitional duty may be offered for a shorter period of time than the predicted duration of the employee's temporary medical restrictions.

4. Alternative duty may be offered to an employee when all of the following conditions are met:

- a. Alternative duty is available;
- b. The duties enable the employee to work within his or her temporary medical restrictions;
- c. Funding for the alternative duty is available; and
- d. The alternative duty assignment does not conflict with any collective bargaining agreement.

5. An employee may perform alternative duty in any department that participates in alternative duty, and due to the independence of separately elected officials, alternative duty may not be available in the office of a separately elected official.

6. Kitsap County has no obligation to create vacant positions or provide promotional positions for transitional duty assignments.

7. The transitional duty process has no obligation to waive job qualifications or probation requirements.

8. An employee may be required to take a transitional duty assignment if it does not interfere with the employee's functional limitations and the employee is returned to his/her original position when the functional limitations end.

9. A transitional duty assignment may be terminated at any time by the employing official.

10. Departments and Elected Officials adopting this policy will work in consultation with Risk Management and Human Resources in determining to offer alternative duty assignments.

**B. Medical Restrictions Exceeding Six Months**

1. When transitional duty has been provided and it subsequently becomes known that an employee's restrictions will exceed six months, the employing official or designee, Risk Management and Human Resources staff must be notified.

2. Transitional duty assignments shall not exceed six months without authorization from the employing official or designee.

3. Employees who are unable to return to their regular jobs due to permanent, prolonged, or indefinite medical restrictions are not eligible for transitional duty but may be eligible for Reassignment Services as outlined in the Reasonable Accommodation in Employment for Individuals with Disabilities Policy.

**C. FMLA/KCFML Provisions**

1. When offering transitional duty to employees who are eligible for leave under the Family Medical Leave Act (FMLA) the following provisions apply:

- a. If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, including a period of recovery, or for bonding with a newborn child or placement of a child for adoption or foster care, the employee may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.
- b. The alternative position must have equivalent pay and benefits as compared to the employee's regular position.
- c. The alternative position may not be used to discourage the employee from taking leave or otherwise work a hardship on the employee.
- d. When the employee no longer needs to continue on leave and is able to return to full-time work, the employee will be returned to the same or equivalent job as the job he or she left when the leave commenced.

**D. Benefits**

1. The terms and conditions of the collective bargaining agreement and/or County Personnel Manual applicable to the employee's regular position continue to apply while the employee is working in a transitional duty assignment.

2. An employee who refuses transitional duty when offered may not be qualified to remain to remain in the job and may be found ineligible for Workers' Compensation wage replacement income and/or Long Term Disability benefits, if applicable.