

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

I.

Board Policies Covering All Employees

Board Policy No. 4020: RETURN - TO - WORK PROGRAM

GENERAL

- A. The Governing Board recognizes that when employees suffer a work-related injury or illness which may be compensable under the Worker's Compensation laws, it is advantageous to the employee as well as the District for the employee to return to work as soon as the employee is medically able to do so without any immediate threat of serious injury to the employee or others. If an employee can return to work but cannot do so without medical work restrictions, it may be mutually beneficial for the employee to return to work temporarily in the employee's former position, as appropriately modified, or in a temporary alternative work assignment consistent with the employee's work restrictions, the terms of this Policy, and the availability of the temporary assignment. The early and sustained returned to work of injured employees may assist the District to minimize lost time from work, and other costs associated with work injuries and may serve to facilitate an earlier return to full duty.
- B. It is the intent of the this Policy to establish a Return-to-Work Program which meets the overall goal of returning industrially injured employees to their positions as rapidly as possible.
- C. A Return-to-Work Program is an essential component of the District's efforts to contain Worker's Compensation costs. The goals of this Program are to:
1. Insure that District operations are efficiently and effectively maintained;
 2. Provide the opportunity for an injured worker to remain, at least temporarily, in the workplace or to return to the workplace as soon as possible, consistent with work restrictions and the availability of a temporary work assignment;
 3. Provide a means for identifying an injured employee's job skills and matching such skills with medical restrictions to provide productive work which fills an existing need of the District and assists employees to maintain self-esteem and morale during the recovery process;
 4. Reduce the number of work place accidents which result in lost time from work and the duration of such lost time as well as the disability costs to the District;
 5. Reduce the number of litigated Worker's Compensation claims and associated costs;

6. Maintain an appropriate level of employee productivity by assigning injured workers to perform productive work that would otherwise not be performed without hiring substitute, short-term or temporary employees, assigning overtime work, or requiring current employees to perform additional work or work outside of their classifications;
 7. Reduce the costs of hiring substitute, short-term, or temporary employees and the costs of overtime, additional work, or work out of classification;
 8. Increase the District's opportunity to maintain communication with injured employees;
 9. Reduce the costs of hiring rehabilitation experts as well as overall medical costs.
- D. The Superintendent or designee shall collect factual data regarding the performance of this Program, and shall periodically cause the Program to be evaluated to determine if and the extent to which the Program is meeting the goals identified in paragraph C above. The purpose of such evaluation shall be to determine the extent and nature of any savings to the District of those specific costs associated with the administration of the Worker's Compensation program. Cost savings which should be reviewed include, but are not limited to, savings in disability payments, employee temporary replacement costs, premium costs, rehabilitation, litigation and medical costs. Factual data should also be periodically gathered to determine the existence and extent of any reduction in the number and duration of lost time injuries, the types of modified work or alternative work assignments provided to employees and their average duration, and the number of litigated claims.

RETURN-TO-WORK PROGRAM

- A. The District's Return-to-Work Program will be coordinated by the Superintendent in cooperation with the injured employee's supervisor, and the District's third party Worker's Compensation administrator consistent with applicable Federal and State law and the District's current collective bargaining agreements.
- B. Definitions. For the purposes of this Policy the following definitions shall apply:
1. "Alternative work" means a full-time or part-time temporary work assignment for which an injured employee is qualified and which may include work that is different from the kind of work in the classification of the employee's usual and customary work and which is consistent with the employee's medical work restrictions.
 2. "Modified work" means a full-time or part-time temporary work assignment for which an injured employee is qualified which includes work that is the same or similar to that performed by the employee in the classification of the employee's usual and customary work and which is consistent with the employee's medical

restrictions.

3. A "Temporary work assignment" means a full-time or part-time modified or alternative work assignment which shall not exceed a total of ninety (90) calendar days during the employee's current work year which may extend into the following work year. It is not the intention of the District to create new permanent positions from which members of the applicable bargaining unit or potential employment applicants are excluded.
 4. "Part-time" means a work day and work week in the temporary assignment which shall not be less than two (2) consecutive hours in length for no less than three (3) days per week. If an employee is offered and assigned to part-time work, the employee shall receive temporary disability, statutory or other leaves to which entitled on a pro rata basis at no loss in total salary to the extent entitled.
 5. "Full-time" means a work day and work week which are equal to the work day and work week of the employee's usual and customary work. If an employee is offered and assigned to full-time work, the employee's ordinary salary shall not be reduced.
 6. "Medical work restrictions" means those functional physical or mental work limitations resulting from a work injury specified by the employee's treating physician.
 6. "Essential functions" means the fundamental job duties of the employee's position as defined in District Board Policy 4021, "Reasonable Accommodation of Applicants and Employees."
- C. If available, and consistent with an employee's medical restrictions, the District will provide temporary full-time or part-time alternative or modified work to qualified industrially injured employees to expire the earlier of ninety (90) calendar days from the date of the actual temporary return to work, the duration of the District's need for the alternative or modified work, or the expiration of the employee's work restrictions. In no case will an alternative or modified work assignment exceed ninety (90) calendar days. Alternative or modified work is available only if the District determines that such work is work which the District has a bona-fide need to perform, and work that the District would otherwise hire short-term, substitute or temporary employees to perform, or require other employees to additionally perform on an overtime, out of classification, or additional pay basis, and the employee can safely perform such work without substantial and immediate danger to himself or others.
- D. If medical work restrictions do not prohibit the performance of the essential functions of the employee's usual and customary work, the District may modify the regular job duties consistent with the work restrictions, any resulting hardship to other employees in the same classification, and the availability of assistive devices or job structuring which would enable the employee to perform the essential functions of the position with

minimal expense to the District. If the work restrictions prohibit performance of the essential functions of the position, as determined by the District with the advice of the District's Worker's Compensation administrator or other experts, the District will explore the possibility of offering alternative work if available.

- E. If an injured employee is offered a temporary full-time or part-time modified or alternative work assignment in writing which is consistent with the employee's medical work restrictions, and the employee refuses to accept such work, the employee may lose all or part of the employee's entitlement to industrial accident leave and/or temporary disability benefits.
- F. In providing modified or alternative work, the District shall not create a preference in employment for injured employees over noninjured employees or terminate, layoff, demote, or otherwise displace another employee in order to provide modified or alternative work to an injured employee.
- G. For the purposes of administering this Policy as well as its Worker's Compensation program, the District shall have access only to that medical information limited to the diagnosis of the mental or physical condition(s) for which workers' compensation is claimed and the treatment provided for this condition, and to medical information regarding the injury for which workers' compensation is claimed that is necessary for the District in order to modify the employee's work duties.

Procedure For Return-To-Work Determinations

- A. Employees will be notified by the Superintendent of the District's Return-to-Work Program initially when hired, after the occurrence of a work-related injury or illness, and during implementation of the Program, as needed.
- B. When an employee is injured on the job, even if the injury requires only first-aid, the supervisor will immediately notify the Superintendent and provide the employee with a claim form. The supervisor will also immediately complete and submit to the Superintendent the supervisor's report of accident.
- C. Injured employees will be sent for medical treatment to one of the District's approved medical care providers. The employee's treating physician will be notified by the supervisor that the District has a Return-to-Work Program. The supervisor shall also provide the treating physician with a copy of this District Policy as well as a copy of the injured employee's job description at the time of treatment or as soon thereafter as possible. Such information should assist the treating physician to perform an accurate medical evaluation regarding a possible return-to-work and to describe specific work restrictions, if any. The treating physician should also be informed by the supervisor that The District's Worker's Compensation administrator is available to assist the physician. Such assistance may include any additional information necessary regarding the specific nature of the employee's job functions which would enable the physician to accurately describe any work restrictions. The treating physician should contact Human Resources

for a referral to The District's Worker's Compensation administrator.

1. After receiving any immediate medical treatment deemed appropriate by the treating physician, the employee shall report back to the District as soon as possible and provide a medical report signed by the treating physician, the ability to work statement, any other documentation which the physician believes relevant to any specific work restrictions, and the employee's expected date of return to work with or without work restrictions.
2. The Superintendent or designee shall meet with the employee and his/her supervisor to discuss whether the medical restrictions permit the employee to perform all of his or her regular duties within the restrictions and any functional limitations upon which the restrictions are based. If the District determines that the employee cannot perform or cannot safely perform all of his or her regular duties as a result of the medical restrictions, the District shall consider assigning the employee to temporary modified or alternative work if such work is available.
3. The Superintendent, with any assistance deemed necessary from the District's Worker's Compensation administrator, will determine if the employee can be returned to modified work in the employee's customary position consistent with the employee's work restrictions, the functional requirements of the position, and the needs of the District. Each case shall be determined on a case-by-case basis, and the District shall keep a record of such determination and the reasons that modified work was not deemed to be available.
4. If the District determines that modified work is not available, the District will determine whether an alternative work assignment is available consistent with the employee's medical restrictions. Each case shall be determined on a case-by-case basis, and the District shall keep a record of such determination and the reasons that alternative work was not deemed to be available.
5. If the District determines that there is no modified or alternative work available within the employee's medical restrictions and the needs of the District, the employee will be placed on industrial injury leave, and if necessary, temporary disability or other leave to the extent entitled to such leaves by statute or other rule of the District until the earlier of the expiration of all such leaves to which entitled, or the expiration of the employee's restrictions and the employee can return to full duty without any medical restrictions.
6. If the District determines that there is no modified or alternative work available within the employee's medical restrictions and the needs of the District, District Human Resources, through the District's Worker's Compensation administrator, will confirm that the restrictions accurately reflect the employee's medical restrictions and periodically contact the employee's treating physician to confirm that there has been no change in the restrictions which might permit a return-to-work at a later time.

7. The injured employee's medical status will be continuously monitored and evaluated. If the work restrictions are of temporary duration and subject to reevaluation by the District on a short-term basis, the employee's supervisor must check the status of the employee's medical restrictions on a weekly basis. This will enable modification of the work assignment as the restrictions are lessened or removed. The Superintendent, through the District's Worker's Compensation administrator, will maintain communication with the physician to ensure that any possible return to work is effective as soon as possible.
- F. If following the expiration of the ninety (90) day period, or if the District no longer needs the work to be done, if an employee assigned to modified or alternative work is unable to return to the employee's usual and customary position, the work assignment shall cease. If the employee's condition is permanent and stationary, or the employee is still temporarily disabled at the expiration of all leaves to which entitled, the employee will be evaluated to determine whether the employee is disabled within the meaning of state or federal law, and if so, whether the employee can perform the essential functions of the employee's customary position with or without reasonable accommodation. Such determination shall be made pursuant to District Board Policy 4021 - "Reasonable Accommodation of Applicants and Employees." If the employee is determined to be disabled within the meaning of State or Federal law and the employee is able to perform the essential functions of the usual and customary position with accommodation and without undue hardship to the District, reasonable accommodation will be provided. If the employee is not disabled within the meaning of State or Federal law or the employee cannot perform the essential functions of the position with or without reasonable accommodation or undue hardship to the District, the employee will be placed on a 39-month reemployment list in accordance with State law, District rules, and any applicable collective bargaining agreement.

Determining the Type and Duration of Modified or Alternative Work Available

- A. In determining whether modified or alternative temporary work is available consistent with an employee's medical work restrictions and the District's bona-fide need for the work to be done, the District may consider possible temporary physical modifications to the worksite, assistive equipment and devices, furniture, assistive tools, a reduced or modified work schedule, the employee's work qualifications, physical abilities and limitations, a job site analysis, possible temporary restructuring of the existing job duties, temporary assignment to a vacant position for which qualified and consistent with work restrictions, and any other resource which would permit the employee to temporarily perform modified duties in the employee's former position or to perform duties in an alternative work assignment consistent with the employee's medical restrictions and at minimal cost to the District.
- B. Alternative or modified work is available if those duties which an employee is not medically restricted from performing are the equivalent of a full-time or part-time assignment as defined above, and the District has a need to have the work performed.

- C. The District shall inform the exclusive representative of the applicable collective bargaining unit as to the nature of any alternative or modified work provided to unit members and its anticipated duration.
- D. Nothing in this Policy shall be construed to limit the rights and obligations of employees or the District under applicable State Workers' compensation laws.

Legal Reference

Education Code §§ 44977, 44984, 45192,
Labor Code § 139.47, 139.48; 3762; 4644

Date Policy Adopted By The Board: March 13, 2003

Date Policy Revised By The Board: October 9, 2003 (formerly B.P. 4022)