



<b>SECTION: HUMAN RESOURCES</b>	<b>REFERENCE NUMBER: A4</b>
<b>SUBJECT: MODIFIED DUTY</b>	<b>EFFECTIVE DATE: 09/01/2018</b>
<b>FROM: DR. CRYSTAL CALDERA, CITY MANAGER</b>	<b>LAST REVISION DATE: 02/15/2023</b>

A. **PURPOSE**

To clarify the conditions under which the City will place an employee on a modified duty schedule and to provide guidance to departments that will ensure a consistent administration of the modified duty policy.

B. **DEFINITIONS**

1. Modified duty is defined as a temporary assignment, which shall have a defined beginning and ending date, and a maximum duration of eight (8) weeks for an employee that has sustained work or non-work-related injuries. Exceptions due to hardship in a department to allow an employee that has sustained injuries more than eight (8) weeks can only be made by the City Manager.
  - A. Modified duty schedules are determined by the Department Head after an assessment of an employee’s medical work release, an employee’s skill level, and an evaluation of duties that must be able to be accomplished by an injured or ill employee without endangering the employee’s recuperation process or significantly increasing the City’s liability exposure.
  - B. Modified duty is work necessary to accomplish the mission of the Department. Under no circumstance shall a Department Head “make work” designed solely to accommodate an injured or ill employee’s return to work.
2. “Part-time” status is defined as any workday less than the employee’s normal assigned work schedule. Part-time duty may include the employee’s regular duties or modified duties as ordered by a physician.
3. Outside Employment includes any form of employment, business relationship or activity involving the provision of personal services, whether paid or unpaid, other than with the City of Leon Valley. Also known as a second job or volunteer work.

C. **RESPONSIBILITIES**

1. The City Manager, or their designated representative, typically the Human Resources Director, will be responsible for monitoring and administering this policy.
2. Department Heads are responsible for:
  - a. Ensuring compliance of supervisors and employees with the provisions of this policy.
  - b. Identifying work that can be accomplished by an employee recuperating from an injury or illness that will conform not only to the employee's skill level but also conforms to the employee's medical work release and ordered activity restrictions.
  - c. Evaluating the availability and suitability of modified work duty every four (4) weeks, for as long as their Department has an employee assigned to modified duty. – Attachment B
3. Employees are responsible for:
  - a. Returning a medical work release to the Human Resources Director which indicates the number of hours the employee may work during recuperation, the types of duties that can be performed by the employee and an estimated date of the employee's return to their normal duties and / or their normal duty schedule, including any restrictions and/or scheduled of physical therapy exercises to be performed for recuperation.
  - b. Providing their Department Head an updated work release form from their physician every four (4) weeks, until they are returned to their regular work duties and schedule.
  - c. Performing their Modified Duty Assignment in a safe manner that limits the risk of aggravation of the employee's injury or illness. Scope of modified duties is limited to that assigned by employee's Department Head.

D. **POLICY**

1. The City of Leon Valley is not obligated to place an employee on a modified duty schedule, but may assign modified duty if there is pending work available to accomplish the Department's mission for which the employee has the skills necessary and their physician's release to perform. Employees may be placed outside their department if a modified duty assignment, for which they are qualified, is available.
  - a. Factors considered by the City in making its decision include but are not limited to:
    - i. The nature of the employee's illness or injury.

- ii. The medical release provided in support of modified duty.
  - iii. The risk that a modified duty assignment may result in aggravation of the employee's injury or illness.
  - iv. The type of modified duty work available.
  - v. The employee's performance and disciplinary history.
  - vi. Whether the illness or injury occurred on or off duty.
2. No employee will be moved from his regular job in order to make modified duty available to another employee.
3. Under this policy, when an employee returns to work in a modified duty status for a work-related injury, Temporary Income Benefits under the workers' compensation program may be adjusted.
4. The employee's physicians release with restrictions must detail what the employee is allowed to do, the number of hours the employee is allowed to work and the date of the next evaluation.
5. Employees who are released for and given a modified duty assignment, may not perform work duties in violation of their medical release. An employee, who violates the terms of the medical release while on a modified duty assignment may lose the modified duty assignment and, in addition, may be disciplined up to and including termination of employment.
6. All requests for modified duty must be made through the employee's Department Head. The request must be approved by the appropriate medical authority, the Department Head of the department in which the modified duty assignment is to be performed, the Human Resources Director and the City Manager or his/her designee.
7. When more than one employee is equally qualified for the same type of modified duty assignment and insufficient work is available for both employees to perform in their department or in another department, priority will be given first to employees recuperating from an injury suffered on-the-job with the City of Leon Valley. If more than one (1) employee, in the same Department, shares the same status and is equally qualified for available duties as other recuperating employees, the modified work assignment will be shared equally.
8. If modified duty is offered to an employee which is within the duty restrictions/limitations of the employee's medical work release and the employee refuses the assigned modified duty, the City Manager may, with the recommendation of the Department Head, suspend the further use of sick leave, long term leave, or major medical leave until such time the employee either agrees to the modified duty assignment or is released by his physician to return to their normal pre-injury/illness

work schedule and duties. The employee will, however, be allowed to utilize any accrued personal or annual leave, holiday leave, or compensatory time.

9. Employees on an approved modified duty schedule will have their situation reviewed by the Department Head at least every four (4) weeks to determine whether or not modified duties remain available. Modified duty assignments will also be reviewed whenever an employee's physician returns a revised work release.
10. The City Manager may arrange for a medical evaluation, at the City's expense by a physician appointed by the City Manager, if he/she believes it to be appropriate.
11. In no case will an employee be assigned to modified duty for more than eight (8) weeks without the written approval of the City Manager or his/her designee. An employee will be eligible for modified duty only once during any calendar year. Exceptions will be made only with the City Manager's approval.
12. Employees still unable to return to regular duty within (8) weeks established for modified duty must re-qualify for modified duty through evaluation by the treating physician or revert to workers' compensation indemnity payment, accumulated sick leave, Family Medical Leave Act (FMLA) or vacation benefits, if available.
13. The Department Head is responsible for reviewing medical orders for activity limitations and determining modified duty activities and availability that will not conflict with the medical restrictions and which match the employee's skill level.
14. Shift Personnel assigned to modified duty may be assigned to a different schedule, at times that are suitable to the City for accomplishing assigned work tasks.
15. An employee's salary during any modified duty assignment shall be at the same rate as the salary received prior to the injury.
16. While employee is on modified duty employee is not allowed to have outside employment until they are released to full duty.
17. Before returning to regular job duties following a modified duty assignment, the employee must provide a full work release from the physician to return to work and coordinate the return through the Director of Human Resources.
18. The City Manager considers final approval for all modified duty assignments or his/her designee.

E. **PROCEDURE**

1. Employee fills out the request for modified duty and turns it in with the physician's note, to the Department Head – Attachment A
2. The Department Head will review the restrictions and determine if work is available for such restrictions and forward the request to the Human Resources Office within two business days – Attachment A
3. The City Manager or the Human Resources Officer will either approve or deny the request and notify the employee within two business days.
4. The Department Head will evaluate the availability and suitability of modified work duty every four (4) weeks for employee's assigned to modified duty. – Attachment B

# REQUEST FOR MODIFIED DUTY

Employee Name: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Department: \_\_\_\_\_ Position Title: \_\_\_\_\_

I request modified duty for the following reason (check one):

\_\_\_\_\_ A. Work Related Injury

\_\_\_\_\_ B. Non-work Related Injury

Expected Duration of Modified Duty: \_\_\_\_\_

Work release from my Physician stating restrictions is attached: YES \_\_\_\_ NO \_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

.....  
**Department Head Use Only**

**Department Head Name:** \_\_\_\_\_ **Date Request Received:** \_\_\_\_\_

**I reviewed the restrictions and I DO \_\_\_\_ or DO NOT \_\_\_\_ have work available for this modified duty request.**

**If work is available please detail below the work the employee will be doing and hours available for such work.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

.....  
**City Manager or Human Resources Use Only**

**Modified Duty Request:**

\_\_\_\_\_ **Approved**

\_\_\_\_\_ **Denied**

### MODIFIED DUTY EVALUATION

Employee Name: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Department: \_\_\_\_\_ Position Title: \_\_\_\_\_

Modified duty was assigned for the following reason (check one):

\_\_\_\_\_ A. Work-Related Injury      \_\_\_\_\_ B. Non-Work-Related Injury

Evaluation Period:

\_\_\_\_\_ Four (4) Week Review

\_\_\_\_\_ Eight (8) Week Review

\_\_\_\_\_ Return to Work Review (Coordinate Return-to-Work with Human Resources)

\_\_\_\_\_ Other (Explain): \_\_\_\_\_

Expected Duration of Modified Duty: \_\_\_\_\_

Work release from Employee's Physician stating restrictions is attached: YES \_\_\_ NO \_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

.....  
**Department Head Use Only**

Employee's Medical Work Release conforms to Modified Duty Assigned: YES \_\_\_ NO \_\_\_

**I reviewed the availability and suitability of modified work duty assigned to employee,  
and I DO \_\_\_ or DO NOT \_\_\_ have work available for this modified duty request.**

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Date