

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Transitional Work Policy	PAGE <u>1</u> OF <u>8</u> NUMBER: 36-LEV-05
RULE/CODE REFERENCE: Ohio Revised Code 4123	SUPERSEDES: 36-LEV-05 dated 10/13/10
RELATED ACA STANDARDS:	EFFECTIVE DATE: December 1, 2014
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to implement an individualized and progressive transitional work program for any full time permanent Department of Rehabilitation and Correction employees in need of modified task(s)/assignment(s) while they are recovering from temporary restriction(s) arising from an occupational or non-occupational injury, mental illness or other impairment without compromising the security and safety of any employee of the Department, its inmate population, or the community at large.

III. APPLICABILITY

This policy applies to all full time permanent employees of the Department of Rehabilitation and Correction.

IV. DEFINITIONS

Statewide Transitional Work Committee (STWC) - A committee comprised of equal representation from labor and management whose purpose is to provide guidance and direction on the interpretation of the Department's transitional work policy, approve training, monitor statewide compliance with the program, serve as a resource to institutions on best practices, and provide program updates.

Essential Function – The fundamental job duties of the employment position the employee holds within the Department.

Modified Task(s)/Assignment(s) – Any change or adjustment to the task(s)/assignment(s) of an employee's original job or any newly created task(s)/assignment(s) offered to an employee as part of the terms and conditions of his/her transitional work agreement.

Restrictions – Any physical or mental limitation(s) prescribed by a physician that temporarily prevents the employee from performing the essential functions of his/her job. Prohibition against working

overtime and/or limited number of hours absent physical or mental restrictions will not satisfy the eligibility requirements for transitional work.

Transitional Work Agreement – A written agreement between the employee, union representative, and management setting forth the specific terms and conditions for participation in the program.

Transitional Work Program - An individualized and progressive work hardening program that assists employees with temporary restrictions to gradually transition back to unrestricted duty in 90 days or less.

Worksite – The employee’s regular working location.

Worksite Committee - A committee comprised of one representative from each union at the local institution, one human resource representative and one labor relations representative as its membership.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to modify the task(s)/assignment(s) of the employee’s original job or create job task(s)/assignment(s) to enable employees with temporary restrictions to return to work as soon as medically feasible.

VI. PROCEDURES

A. Statewide Transitional Work Committee

1. The Statewide Transitional Work Committee (STWC) membership shall consist of equal representation from labor and management. All management representatives shall be appointed by the Director/designee and a labor representative shall be appointed by the respective statewide unions. The STWC shall meet quarterly or more frequently if needed.
2. The purpose of the STWC is to provide guidance and direction on policy interpretation, approve training, monitor statewide compliance with the program, serve as a resource for best practices, and provide program updates.
3. Each member of the STWC shall have working knowledge of the mission, goals, and objectives of the Department’s transitional work program.
4. Any modifications to the transitional work policy language or guidelines shall be made by mutual agreement of the STWC members subject to the approval of the Director.

B. Worksite Committee

1. Each facility, Operation Support Center, and the Division of Parole and Community Services shall have a Worksite Committee. The Worksite Committee at each institution shall be comprised of one representative from each union at the institution, one human resources representative, and one labor relations representative. An alternate shall be designated and shall be released in the event the representative is unable to attend. The

Worksite Committee shall meet bi-monthly (January, March, May, July, September, November), but can agree to meet more frequently.

2. Each Worksite Committee member shall have working knowledge of the mission, goals, and objectives of the Department's transitional work program.
3. Worksite Committees shall not have access to confidential medical documentation concerning an employee's diagnosis or treatment. The Worksite Committee's transitional work review shall be limited to an assessment of the barriers that the employee's restrictions and/or limitations may have on his/her performing the essential functions of his/her original job.
4. The Worksite Committee shall, within a month of the effective date of this policy, pre-determine work locations, tasks and assignments that are appropriate for use in the Department's transitional work program. The Worksite Committee shall also identify a subset of locations for a shift supervisor's use for placement of an employee into a temporary transitional work assignment outside of regular business hours.

C. General Guidelines for Transitional Work

1. Admission into the Department's transitional work program shall be based upon equitable standards for all employees.
2. No modified task(s)/assignment(s) offered as part of participation in the Department's transitional work program shall be construed as an accommodation under the Americans with Disabilities Act.
3. Nothing in this policy shall circumvent the employee's right to receive FMLA. If the employee has a current FMLA certification while in transitional work, the hours not worked shall be counted against his/her FMLA leave balance.
4. Employees returning to work from a disability separation do not qualify for transitional work. The employee right to exercise his/her right to reinstatement is controlled by Ohio Administrative Code Section 123:1-30.

D. Functional Stability/Basic Requirements for Participation in Transitional Work

1. The employee must be functionally stable in order to participate in transitional work. If an employee is a candidate for surgical procedure (i.e. documentation from a physician that surgery will occur) or other substantial medical treatment, transitional work shall not be available until the employee's condition has reached therapeutic or clinical stability and he/she is at the stage of recovery.
2. Where a modified work assignment meeting the restrictions of the employee's treating physician is offered by the local worksite committee, participation in the transitional work shall be mandatory.

3. No employee shall be excluded from the Department's transitional work program due to the use of crutches, braces, or other devices to assist with recovery unless the Worksite Committee and/or Appointing Authority/designee determines that such device places the employee at an undue safety risk or compromises security.

E. Counting Time and Use of Leave

1. Employees shall be given 90 days or less, per workers' compensation injury as determined by BWC, disability claim as determined by DAS, or other incident as determined by the worksite committee based on medical documentation to gradually transition back to full time unrestricted duty.
2. Time in transitional work shall be counted in calendar days. Any time the employee works while in transitional work shall be counted as a day of the program. The 90-day period for transitional work shall be calculated in calendar days that include Saturdays and Sundays. Vacation days, intersession, adoption/childbirth leave or other leaves of absences shall be counted as part of the 90-day period of transitional work.
3. Employees in transitional work must have the ability to work no less than twenty-hours per week. Vacation time or other leaves of absence shall not be counted in the twenty-hour minimum work schedule.
4. Employees in the program shall not work overtime hours and shall not be scheduled to work on holidays. If the holiday is the employee's regular work day, he/she shall have the holiday off and shall be paid holiday pay for the day. If the employee worked a 40 hour week and the holiday falls on their day off they shall receive the premium holiday pay (PREMHOL).
5. While participating in the Department's transitional work program the employee shall be considered in active pay status and shall be paid at their normal rate of pay and benefits for the number of hours worked.
6. Employees that receive workers' compensation benefits or disability benefits during his/her time in transitional work shall accumulate leave, but shall not be eligible to use such time until the employee has been certified by their physician to resume the full duties of his/her job.

F. Training/Education/Other Activity

1. In-service training is permitted as long as the number of hours the employee is participating is monitored and the employee does not participate in physical skills training.
2. Educational training is permitted on a case-by-case basis with supervisory approval.
3. Union activity shall not be restricted while participating in the program.

4. An employee in the program shall generally be assigned on his/her regular shift unless their medical restriction(s) require a different schedule. Custody staff are permitted to bid on another post while in transitional work but cannot start their new post until the successful completion of their transitional work program along with the submission of a full release from his/her physician to resume the duties of the original job. Support staff are permitted to apply for another position while in transitional work but cannot start their new position until the successful completion of their transitional work program along with the submission of a full release from his/her physician to resume the duties of the original job. The transitional work employee must demonstrate the ability to perform the essential functions of his/her original job duties before he/she will be permitted to start their new post/position.
5. An employee who is on probation shall automatically have his/her probationary period extended by the amount of time spent in the transitional work program.
6. An employee injured during pre-service training shall complete his/her 3 or 4 week Corrections Training Academy (CTA) class time; however, the participant shall not engage in any physical training including, but not limited to, unarmed self defense and firearms training. During the physical training pre-service classes, the CTA Superintendent/designee shall consult with the employee's Managing Officer/designee to determine the employee's task(s)/assignment(s). Transitional work employees shall be scheduled for certification at the conclusion of their program and a full release to return to duty.
7. Employees off for one year or more must successfully complete the Department's transitional work program prior to being scheduled for CTA pre-service training.

G. Administration of the Transitional Work Program

1. Notification of the Program/Processing of Restriction Forms
 - a. An employee shall be provided transitional work information at the time of injury or at the beginning of his/her leave. The maximum participation in the Department's transitional work program is 90 days without exception.
 - b. If an employee submits a written restriction from a physician stating that the employee is to have no inmate/offender contact human resources shall immediately send the Limited Contact Form (DR1928) to the physician for agreement to change the no inmate/offender contact to limited inmate/offender contact by number, distance, or location.
 - c. When the employee is released to return to work, he/she shall notify the Department as soon as possible. If notification can be made during normal business hours, the employee shall contact the local human resources representative at their institution/APA work location. Operation Support Center employees shall contact their OSC human resources representative. If notification is outside of normal business hours, the institutional employee shall contact their shift supervisor and the APA employee shall contact their unit supervisor. Initial notification may be made by phone call or e-mail.

- d. The employee is responsible for having the work capacity or Medco 14 form completed by his/her physician. Upon return to work, the employee shall have a maximum of 7 calendar days to submit the form to human resources. If the employee fails to submit a work capacity, Medco 14 form or other appropriate documentation of his/her restrictions in compliance with policy within 7 calendar days of entering the Department's transitional program, the employee shall be suspended from the program.
2. Employee Placement into the Program
 - a. Once the employee has provided a complete work capacity form or Medco 14, and the restrictions can be safely complied with the employee shall receive a program assignment.
 - b. Human resources shall place the employee in one of the jointly pre-determined locations, with tasks and assignments that comply with the employee's restrictions that will provide the employee with a meaningful day's work and shall not place the employee at undue risk of harm.
3. Guidelines for Developing Task(s)/Assignment(s)
 - a. Custody staff is supplemental to minimum staffing levels and shall not be assigned to fill an established post while in transitional work. If non-custody staff is not placed in a supplemental position reasonable precautions shall be taken to ensure the safety of the non-custody employee while working in areas where inmates may be present.
 - b. The order of the transitional work task(s)/assignment(s) shall be:
 - i. Same position with modification to task(s)/assignment(s) – same shift;
 - ii. Same position with or without modification to task(s)/assignment(s) – different shift;
 - iii. Same position with or without modification to task(s)/assignment(s) – different location within the worksite;
 - iv. Different position – same shift;
 - v. Different position – different shift.
 - c. If a pre-determined location cannot be used for any reason, human resources will reach out to the applicable union representative within 24 hours or reasonable time thereafter to jointly make a decision on location, tasks and assignments. The employee may be involved in the decision.
 - d. Human resources shall meet with the injured worker to explain the transitional work program and the DRC Transitional Work Agreement (DRC1773). The applicable union representative may participate if available. A copy of the DRC Transitional Work Agreement (DRC1773) that describes the work location, tasks and assignments shall be given to the employee's supervisor. Human resources shall also communicate to the employee's supervisor any activities/tasks that the employee is prohibited from doing.

4. Upon Notification of Restrictions to Shift Supervisor:
 - a. Supervisors are to assist the Worksite Committee with identifying and developing options for task(s)/assignments(s) and monitoring the employee's progress while in transitional work.
 - b. Supervisors are not to change the task(s)/assignment(s) listed on the DRC Transitional Work Agreement (DRC1773) nor place the employee at undue risk while performing his/her task(s)/assignment(s).
 - c. The shift supervisor shall place the employee in one of the work locations, tasks, and assignments that have been pre-determined by the worksite committee and deemed appropriate for short-term placement. This is an initial assignment that shall be reviewed the first regular business day following the employee's return to work.
 - d. The DRC Transitional Work Agreement (1773) shall be submitted by the shift supervisor to human resources at the institution on the first business day following the employee's return to work. Human resources is responsible for communicating with the employee regarding any additional information that is needed for participation in the program.
 - e. During the transitional work assignment, the human resources representative and the applicable union representative are responsible for monitoring the employee's progress, communicating with the employee and each other about the employee's participation in the program, providing feedback, and documenting work progression on the DRC Transitional Work Agreement (1773). Work progression must be documented at 14, 30, and 60 days at a minimum. At 14 days, no updated medical information is required from the employee's physician.
5. Employee Responsibilities

The employee shall:

 - a. Comply with all Departmental policies, rules, and safe work practices
 - b. Follow all injury reporting procedures as outlined in the Department Policy 10-SAF-15, Employee Accident Reporting and Analysis
 - c. Only perform those task(s)/assignments(s) listed on the DRC Transitional Work Agreement (DRC1773)
 - d. Use reasonable efforts to avoid direct physical intervention in emergency situations
 - e. Immediately notify a supervisor and member of the worksite committee, if available, of any pain or discomfort developed from his/her task(s)/assignments(s)
 - f. Immediately notify a supervisor and a member of the worksite team, if available, of any other difficulty or impediment to his/her successful completion of transitional work

