
Alameda-Contra Costa Transit District

Administrative Regulation No. 212A:

Modified Duty

Issuing Officer: General Manager
Date of Adoption: 10/24/2022
Most Recent Amendment: None
See Also: 210A

Subject Category: Section 200: Human Resources
Subsection: General
Control Department(s): General Counsel

I. PURPOSE

The purpose of this Administrative Regulation is to define the process for employees who have medical work restrictions due to injury and/or illness who cannot work their usual and customary position to participate in the District's Modified Duty Program.

II. PERSONS AFFECTED

All permanent District employees.

III. DEFINITIONS

"Injury" means any mental or physical condition that impacts an employee's ability to perform his or her usual and customary position.

"Industrial Injury" means an injury that was sustained during the course and scope of employment.

"Non-industrial Injury" means an injury that was sustained outside of the course and scope of employment.

"Illness" means any disease, sickness, ailment, or infirmity that impacts an employee's ability to work his or her usual and customary position.

"Work Restrictions" mean any restrictions provided by a medical provider that impacts an employee's ability to work his or her usual and customary position.

"Usual and Customary Position" means an employee's regularly assigned position within the District.

"Modified Duty" means a temporary work assignment. Modified duty can be either part-time or full-time.

"Modified Duty Job Board Questionnaire" means a questionnaire contained in PeopleSoft that helps identify available modified duty assignments within the District.

"Home Division/Work Location" means an employee's regularly assigned division or work location.

“Next Closest Work Location” is defined as the work locations closest in miles to an employee’s home division/work location.

“General Office” refers to the District’s general office located at 1600 Franklin Street, Oakland, California.

IV. REGULATION

A. Modified Duty Program

1. Eligibility:

- a. Industrial injury / illness: participation in the modified duty program is mandatory for those with an industrial injury or illness who have been released to work with restrictions but are unable to perform the essential functions of their usual and customary position. Refusal to participate in the modified duty program may impact an employee’s entitlement to temporary disability.
- b. Non-industrial injury / illness: participation in the modified duty program is optional for employees who have a non-industrial injury or illness who have been released to work with restrictions but are unable to perform the essential functions of their usual and customary position.

2. Responsibilities:

a. Supervisor / Manager responsibilities:

- Identify modified duty assignments in their division or department on a weekly basis;
- Complete the modified duty job board questionnaire in PeopleSoft to request the assignment of an employee eligible to participate in the modified duty program; and
- Communicate any questions or concerns with a modified duty assignment or employee assigned to a modified duty position to the workers’ compensation department.

b. Workers’ Compensation Department’s responsibilities:

- Collect and review all modified duty job board questionnaires submitted through PeopleSoft;
- Collect and review all employee restrictions;

- Maintain a list of employees who are eligible to participate in the modified duty program;
 - Assign employees to modified duty positions according to this Administrative Regulation;
 - Prepare and review a modified duty agreement with every employee and supervisor who participates in the modified duty program;
 - Provide information to the District's Third-Party Administrator (TPA) for employees with industrial injuries who are participating in the modified duty program;
 - Communicate with the supervisor/manager who supervises the modified duty assignment; and
 - Consult with the legal department if a supervisor/manager raises concerns about a modified duty assignment or an employee assigned to a modified duty position.
- c. IT Department's responsibility: to maintain the modified duty job board within PeopleSoft.
- d. Employee's responsibilities:
- Promptly provide all medical restrictions and any additional information requested;
 - Maintain regular communication with the Workers' Compensation Department;
 - Work with the Workers' Compensation Department on identifying any appropriate modified duty assignments; and
 - Communicate any pre-approved scheduled time off.
3. Assignment of Work
- a. The initial assignment of modified duty assignments following the approval of this Administrative Regulation will be made by Workers' Compensation Department using their best discretion. All subsequent assignments will be made by the Workers' Compensation Department on a first come, first serve basis according to this Administrative Regulation.
- b. Eighty percent (80%) of all modified duty assignments will be reserved for and assigned to employees with industrial injuries.

- c. Twenty percent (20%) of all modified duty assignments will be reserved for and assigned to employees with non-industrial injuries.
- d. If after assigning all available industrially injured / ill employees to modified duty assignments there remains additional available modified duty assignments that would otherwise be assigned to employees with an industrial injury / illness, the Workers' Compensation Department may assign an employee who has a non-industrial injury / illness who is on the modified duty list.
- e. If after assigning all available non-industrially injured / ill employees to modified duty assignments there remains additional available modified duty assignments that would otherwise be assigned to employees with a non-industrial injury / illness, the Workers' Compensation Department may assign an employee who has an industrial injury / illness who is on the modified duty list.

4. Maximum Length of Participation in the Modified Duty Program

- a. Employees may participate in the modified duty program for a maximum of 90 calendar days per calendar year. One calendar day is the equivalent of one day worked, regardless of the number of hours worked in the day.
- b. The 90 calendar days may be used either consecutively or non-consecutively. If an employee participates in the modified duty program for less than 90 calendar days within one calendar year and is returned to his/her usual and customary position, and at some time later the same calendar year becomes eligible due to re-injury or a new injury/illness, the employee may participate in the modified duty program for the remaining days he/she has left (90 calendar days minus the number of calendar days worked in the prior modified duty assignment). If an employee returns to the modified duty program, he/she will be placed on the bottom of the assignment list.

5. Location of Modified Duty Assignments

- a. Priority in assignment will be given to the employee's home division / work location. If assignment to the home division / work location is not available, then an employee may be assigned as follows:
 - The General Office; or
 - The work location closest to his/her home division/work location.
- b. An employee may accept an assignment at other work locations not identified above but will not be required to do so.

6. Modified Duty and the Collective Bargaining Agreements

- a. Pursuant to the language contained in the applicable collective bargaining agreements,

a modified duty assignment that backfills or covers a position that is assigned to a union/bargaining unit, shall only be filled by an employee who is a member of that union/bargaining unit.

7. Modified Duty Work Schedule

- a. Most modified duty assignments will be available Monday through Friday during regular business hours. Whenever possible, at the employee’s request, the District will consider an employee’s usual and customary work schedule when making a modified duty assignment. Modified duty assignments with schedules that include weekends or are outside of regular business hours will be limited. An employee who has an industrial injury / illness who refuses a modified duty assignment may have temporary disability benefits terminated.

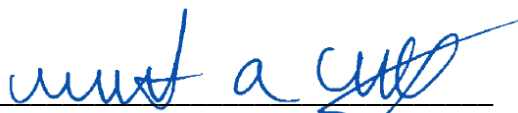
8. Modified Duty Pay

- a. Hourly Rate of Pay: an employee who is assigned to a modified duty assignment shall be paid their usual hourly rate of pay for the number of hours worked in the modified assignment. If an employee’s usual and customary position is a salaried position, the employee’s rate of pay shall be calculated by taking his/her weekly salary and dividing by 40 hours.
- b. Overtime Pay: an employee who is working a modified assignment is not eligible to work overtime.
- c. Holiday Pay: No employee will be assigned to work modified duty on a District holiday.
- d. If a Bus Operator is placed into a modified duty assignment for part of their shift and in their usual and customary for the rest of their shift, and their usual and customary shift is a holiday run, the employee will receive holiday pay pursuant to the Collective Bargaining Agreement.
- e. Run Pay: Bus Operators who are assigned modified duty assignments will not receive run pay.

V. Attachments

None.

Approved by:



Michael A. Hursh, General Manager
Alameda-Contra Costa Transit District