

<p style="text-align: center;"><b>POLICY OF</b></p> <p style="text-align: center;"><b>STATE OF DELAWARE</b></p> <p style="text-align: center;"><b>DEPARTMENT OF CORRECTION</b></p>	<p style="text-align: center;"><b>POLICY NUMBER</b></p> <p style="text-align: center;">9.15</p>	<p style="text-align: center;"><b>PAGE NUMBER</b></p> <p style="text-align: center;">1 of 3</p>
<p><b>CHAPTER: 9 HUMAN RESOURCES AND EMPLOYEE MANAGEMENT RELATIONS</b></p>	<p><b>RELATED ACA STANDARDS:</b></p> <p>2-CO-1C-09-1</p>	
<p><b>APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE:</b></p> <p style="text-align: right;"> 4/2/15</p>		
<p><b>APPROVED FOR PUBLIC RELEASE</b></p>		

**I. AUTHORITY:** Americans with Disability Act (1992); 11 *Del. C.* §6517; 29 *Del. C.* §8903

**II. PURPOSE:** To establish Department of Correction guidelines for assignment of employees to temporary modified duties when they are unable to perform the essential functions of their regularly assigned jobs.

**III. APPLICABILITY:** All Department employees.

**IV. DEFINITIONS:**

**Transitional Assignment:** A temporary work assignment, modified to match the physical limitations imposed by an employee’s physician, for the sole purpose of returning the employee to work as soon as possible following injury or illness. Duties can be consistent with the employee’s current job description or a separate assignment altogether.

**Alternative Duty:** The transitional assignment of employees to jobs outside of their normally assigned classification. Alternative assignments may be in the employee’s current or at another institution or facility. Jobs may be altered to specifically match the medical restrictions imposed by the employee’s physician.

**Light Duty:** The transitional assignment of employees within their assigned job classification where they are able to perform some, but not all, of their regularly assigned duties.

**Essential Functions of the Job:** Job tasks fundamental to the effective performance of a particular job.

**Return to Work Coordinator:** A designated Human Resources employee who serves as a primary contact for Worker’s Compensation Program communications and facilitates transitional assignments department-wide.

**Reasonable Job Accommodations:** Job or work environment modifications that allow employees to continue to perform essential functions of their assigned job classifications. The Department is not required to furnish accommodations that create undue hardships on other employees or Department operations.

<p style="text-align: center;"><b>POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION</b></p>	<p style="text-align: center;"><b>POLICY NUMBER</b> 9.15</p>	<p style="text-align: center;"><b>PAGE NUMBER</b> 2 of 3</p>
<p><b>SUBJECT: RETURN TO WORK</b></p>		

**V. POLICY:** It is the policy of the Department of Correction (DOC) to return employees to a productive employment as soon as possible after suffering an injury or illness.

**VI. PROCEDURES:** The transition back to work may be accomplished in a light or alternative duty status and must always be within the medical restrictions imposed by the employee's physician. Employees, who are ill or injured, on or off the job, submit documentation from their physician describing limitations caused by the illness or injury to their supervisor. The documentation must also include the physician's prognosis for the employee's return to full duty.

Transitional assignments should be based on the following criteria:

- A. Essential funds of the regular job;
- B. Specific limitations of the employee;
- C. Skills and abilities of the employee; and
- D. Duties of the light or alternative duty assignment.

Each assignment should be considered on a case-by-case basis with safety and security paramount.

An employee that declines to participate when the job offered meets the restrictions delineated by their physician may have their worker's compensation benefits reduced or recommended for separation. An employee may not use sick leave for the sole purpose of avoiding participation in a light or alternative duty, as long as the assignment meets the restrictions imposed by their physician.

Assignment to transitional duty may result in a change to the employee's shift and days off for reasons of productivity and supervision. However, employees will not suffer a loss of pay other than what effect their temporary assignment has on hazardous duty pay and shift differential, unless the employee works less than their normal full-time schedule. An employee may not work overtime while on light or alternative duty unless the overtime assignment satisfies imposed medical restrictions.

All transitional assignments are temporary and may not exceed 90 (working or calendar) days unless approved by the Warden or Administrator. In no case may the assignment exceed 180 (working or calendar) days. Medical certification of the continuing need for light or alternative duty is required every 30 days. Each certification must include a prognosis for return to full duty. The prognosis does not have to include an exact date, but must at a minimum provide an approximate timeframe in which the employee will be able to return to full duty. Without a prognosis for return to full duty, an employee may not be placed in a transitional assignment.

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If the employee is not able to return to full duty at the end of 180 calendar days, one of the following options will take effect:

- A. Separation;
- B. Unpaid absence;
- C. Seek employment in DOC or another state agency with the assistance of the Department's Human Resources Officer;
- D. Apply for Short Term Disability if the employee qualifies to do so; or
- E. Apply for a Disability Pension if the employee qualifies to do so.

Reasonable accommodations designed to keep employees in their regular jobs, performing the essential functions of those jobs, are not subject to the time limitations of this Policy. An example of a reasonable accommodation would be alternating a Correctional Officer's shift or days off to allow for kidney dialysis or medical treatments.

Employees with permanent disabilities (not temporary injuries or illnesses) who can perform all of the duties of an existing position in their current job class, may remain or be transferred to that position on a permanent basis as a job accommodation. Work location, shift, days off, shift differential and hazardous duty may be impacted by the accommodation.

If the warden or administrator is unable to identify a transitional assignment for the employee, the Department's Return to Work Coordinator will find suitable duty to match the employee's medical restrictions. The assignment may be to another budget unit. In this situation, the employee's home budget unit will pay the employee's salary.

In an emergency situation or disruption of normal operations, a Warden or Administrator may suspend any provision of this Policy with approval of the Commissioner.

