

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 1057.1: Light Duty for Employees Who Sustain a Work-Related Injury or Illness

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Superseded: None.

Federal Enterprise Architecture Number: 306-112-002a

- 1. Purpose/Background.** U.S. Immigration and Customs Enforcement (ICE) is committed to providing a working environment that fully supports employees who have been cleared to work following a work-related injury or illness. This Directive establishes ICE policy regarding temporary light duty assignments, including details, for ICE employees who have sustained on-the-job injuries or work-related illnesses and have been approved for benefits pursuant to the Federal Employees' Compensation Act (FECA), as determined by the Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP).¹
- 2. Policy.** It is ICE policy to comply with the laws and regulations governing light duty assignments for employees suffering from work-related injuries or illnesses pursuant to FECA. A healthy and fully engaged workforce is vital to carrying out ICE's mission. Providing suitable temporary light duty assignments will allow employees with temporary medically-necessary work activity restrictions to continue to contribute to the organization. The Office of Human Capital (OHC), in coordination with supervisors, will explore ways to provide employees who suffer from work-related injuries or illnesses opportunities for light duty assignments.²

An employee must provide medical documentation from a treating physician indicating that the employee is able to return to work and must provide supporting medical documentation, upon request. Light duty assignments as the result of a compensable injury or illness that occurred on the job may include assignments associated with an employee's position of record and may also include details to another position. Light duty assignments are temporary and aligned with the anticipated time frame for the employee's expected full recovery, as identified by supporting medical documentation. Extensions of temporary light duty assignments are possible and will be considered based on the individual's medically-recommended recovery timeframe.

¹ Employees who file an occupational disease/illness claim that is not traumatic in nature are not entitled to light duty under the Federal Employees' Compensation Act or this Directive until the claim is approved by the Department of Labor's Office of Workers' Compensation Programs. See *ICE Directive 1041.1, ICE Workers' Compensation Program*, dated November 4, 2014, or as updated.

² Depending upon the nature and extent of the work-related injury or illness warranting restrictions, employees in a weapon-carrying position may be prohibited or restricted from carrying a service weapon in accordance with *ICE 19002.1, Interim Firearms Policy*, dated July 7, 2004, or as updated.

Employees may request a light duty assignment or a supervisor may provide a light duty assignment to an employee, which may or may not include Law Enforcement Availability Pay (LEAP) or Administratively Uncontrollable Overtime (AUO) benefits. Refusal to accept a light duty assignment or provide requested information may result in an employee's loss of entitlement to compensation or benefits, including suspension of LEAP or AUO, and could result in administrative action, up to and including removal from Federal service.

ICE's obligations to accommodate a disabled employee are otherwise governed by the Rehabilitation Act of 1974 (29 U.S.C. § 701), as amended.

3. **Definitions.** The following definitions apply for purposes of this Directive only.
 - 3.1. **Headquarters Responsible Officials (HROs).** Executive Associate Directors (EADs) of Enforcement and Removal Operations, Homeland Security Investigations, and Management and Administration (M&A); the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility; and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, Chief of Staff, or EAD for M&A.
 - 3.2. **Light duty assignment.** A temporary work assignment that conforms to the employee's medical or physical requirements. The assignment may be associated with the employee's regular duties and may also include details to another position.
 - 3.3. **Medical Case Manager (MCM).** A certified/licensed registered nurse who coordinates medical treatment and supports and assists with return-to-work efforts in conjunction with the local OHC point of contact.
 - 3.4. **Qualified Physician (Treating Physician).** Includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term treating "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary of Labor.
 - 3.5. **Return-to-Work (RTW).** An effort to return an employee to the workplace as soon as medically feasible. RTW is not limited to returning to work at the employee's normal worksite or usual position but may include returning to work at other locations and in other positions.
4. **Responsibilities.**
 - 4.1. **HROs** are responsible for ensuring that their Directorates or Program Offices comply with the procedures outlined in this Directive.

4.2. OHC is responsible for:

- 1) Developing and updating procedural guidance and requirements pursuant to this Directive;
- 2) Assisting management in placing work-related injured employees in light duty assignments;
- 3) Assisting supervisors in identifying and providing light duty assignments to employees in accordance with physical/medical restrictions as provided by his/her treating physician, including transferring employee to a new position description and suspending LEAP or AUO benefits, when appropriate; and
- 4) Consulting with the MCM regarding medical documentation from the employee's treating physician to verify the scope and/or the need for continued light duty.

4.3. Supervisors are responsible for:

- 1) Consulting with OHC to identify potential light duty assignments, including details;
- 2) Reviewing and amending the employee's performance plan to ensure that his/her goals align with current modified duties, especially if the duties are modified due to an injury;
- 3) Directing all medical questions and documentation to OHC;
- 4) Advising the employee in writing of any change to the employee's regular duty assignments to satisfy the employee's medical restrictions resulting from the work-related injury or illness; and
- 5) Assisting with administrative action due to employee non-cooperation with the provisions of this Directive.

4.4. Employees are responsible for:

- 1) Providing medical restrictions to supervisors;
- 2) Accepting light duty assignments provided by ICE in accordance with medical restrictions;
- 3) Cooperating in the RTW process; and
- 4) Providing all supporting factual (e.g., work experience information and transcripts) and medical documentation to determine eligibility for appropriate positions.

Failure to cooperate may result in:

- a) OWCP terminating DOL workers' compensation benefits; and/or
- b) Agency administrative action, up to and including removal.

5. Procedures/Requirements. None.

6. Recordkeeping. Any personnel records generated as a result of this directive will be maintained pursuant to DOL/GOVT-1 (77 Fed. Reg. 1738 (Jan. 11, 2012) and in accordance with approved National Archives and Records Administration Schedules.

7. Authorities/References.

- 7.1. FECA, as amended, 5 U.S.C., Chapter 81, February 5, 1993.
- 7.2. Section 508 of the Rehabilitation Act (29 U.S.C. § 794d), as amended by the Workforce Investment Act of 1998 (Public Law 105-220), August 7, 1998.
- 7.3. Privacy Act of 1974, as amended, U.S.C. § 552a.
- 7.4. 5 U.S.C. § 8104.
- 7.5. 20 C.F.R. Chapter 1, Part 10, Claims for Compensation under the Federal Employees' Compensation Act.
- 7.6. 20 C.F.R., Part 10 § 10.505 – 10.509.
- 7.7. 20 C.F.R. § 10.15 and § 10.16.
- 7.8. 20 C.F.R. § 10.23 Penalties.
- 7.9. 20 C.F.R. § 10.402.
- 7.10. 29 C.F.R. § 1630.
- 7.11. Rehabilitation Act of 1974 (29 U.S.C. § 701).
- 7.12. DOL, OWCP, Division of Federal Employees' Compensation.
- 7.13. ICE Directive Number 1041.1, *ICE Workers' Compensation Program*, dated November 4, 2014, or as updated.
- 7.14. ICE Standard Operating Procedure, *ICE Workers' Compensation Program*, dated November 4, 2014, or as updated.

- 7.15. ICE Directive Number 4001.1, *Section 508 Electronic and Information Technology Accessibility*, dated March 12, 2009, or as updated.
- 7.16. ICE Directive Number 1022.1, *Table of Offenses and Penalties*, dated December 8, 2006, or as updated.
- 7.17. ICE Directive Number 8011.1, *Procedures to Facilitate the Provision of Reasonable Accommodation*, dated January 13, 2015, or as updated.
- 7.18. Handbook for Safeguarding Sensitive Personally Identifiable Information at DHS, October 2008.
- 8. **Attachments.** None.
- 9. **No Private Right.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



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