

Bona Fide Offer of Employment Instructions for the Department

An offer of modified duty must be made in writing, must be presented with a copy of the corresponding Work Status Report (DWC-73), and must clearly state the following even if it is the same as the employee's regular position:

1. The location at which the employee will be working;
2. The schedule the employee will be working;
3. The wages the employee will be paid;
4. A description of the physical and time requirements that the position will entail; and
5. A statement that the employer will only assign tasks consistent with the employee's physical abilities, knowledge, and skills and will provide training if necessary.

The State Office of Risk Management (SORM) and the Division of Workers Compensation (DWC) consider the following items when evaluating whether an offer of employment is bona fide:

1. The work location is geographically accessible given physical limitations, distance, and availability of transportation;
2. The offered schedule is similar to the pre-injury work schedule;
3. The physical and time requirements are consistent with the doctor's certification of the employee's work abilities; and
4. The manner in which the offer was made to the employee.

Employment is "geographically accessible" to the injured employee if it is within a reasonable distance from the employee residence unless the employee proves with medical evidence that his/her physical condition precludes traveling that distance.

If the employee is released to work with restrictions by a doctor but refuses to accept the work, income benefits may be suspended based on offered wages.

It also is important that the SORM receive copies of all correspondence dealing with a bona fide offer of employment. Therefore, always send the Texas Tech University System Office of Risk Management a copy of the letter when the letter is mailed and when an employee's response is received.

Attachment A of this OP contains a sample letter for a Bona Fide Offer of Employment and the employee's instructions that should be sent along with the letter.

If you have questions during this process, please contact either the Texas Tech University System Office of Risk Management or Human Resources.