

**STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL**

STANDARD OPERATING PROCEDURE

IX. RETURNING AN INJURED WORKER TO FORMER OR MODIFIED FORMER POSITION

A. Purpose

The purpose of this SOP is to provide department personnel offices with guidelines, references, and required procedures for returning injured workers to their former position.

B. Scope

This SOP applies to all injured worker rehire preferences defined by Alaska Statute (AS) 39.25.158 who wish to return to their former position.

C. Authority

Statutory authority for the injured worker program is Alaska Statute 39.25.158. Regulatory authority for the injured worker program can be found at 2 AAC 07.097. That regulation entitles qualified injured workers to a right to return to their previous position if they are physically capable of performing the duties of the position or if the position can be modified to accommodate the employee.

D. Returning an injured worker to his/her former position.

1. After an injured worker is released by their treating physician to return to their previous position, the injured worker may be returned to their previous position by the employing department.
2. If the appointing authority has information that leads them to believe that the injured worker cannot be safely returned to the worker's previous position, the appointing authority may require the employee to gain a certification from either the Director of Vocational Rehabilitation or the Workers Compensation Employment benefits administrator that the injured worker is able to return to work.
3. If the injured worker is certified by the Director of Vocational Rehabilitation or the Workers' Compensation Employment Benefits Administrator as being able to return, the Division of Personnel will notify the department of the injured worker's desire to return to his/her former position and forward a copy of the certification.
4. The department will send the injured worker a certified letter to confirm the injured worker's intention to return to the position. (see addendum A and B)

Returning an Injured Worker to Former or Modified Former Position

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- a. If the injured worker is not interested in returning to his/her former position the department must forward a copy of the signed "not interested" form to the Management Services Unit in the Division of Personnel.
 - b. If the injured worker accepts his/her former position, the department will return the injured worker to the position within 30 days of the date the certification from the Division of Workers Compensation or the Reemployment Benefits Administration was received by the employing department. If the former position is occupied, the employing agency shall cause a vacancy to be created under the provisions of AS 39.25.150(13). The department must send a copy of the signed acceptance form to the Management Services Unit in the Division of Personnel.
 - c. If the injured worker does not respond to the certified letter within 14 days after receipt, the offer will be deemed refused. The department must forward a copy of the letter and returned certification of receipt to the Management Services Unit in the Division of Personnel.
- E. Returning an injured worker to his/her former position as modified by the Division of Vocational Rehabilitation or the Reemployment Benefits Administrator.
1. If an injured worker is released to return to work but cannot perform the full duties of their previous position, the position must be reviewed by the employing department to determine if it can be modified to enable the worker to perform the job within their limitations.
 2. If reasonable accommodations can be made, the department may modify the position and return the worker to the position. If the former position is occupied, the employing agency shall cause a vacancy to be created under the provisions of AS 39.25.150(13).
 3. If the department believes that reasonable accommodations cannot be made, or that the accommodations required to return the worker to their previous position would pose an undue hardship, the department may ask the Division of Personnel to review the case, to determine if the worker can return to the position. This request must include the following:
 1. An updated PDQ.
 2. Description of what duties on the PDQ the injured worker cannot perform.

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3. Explanation of why it is unreasonable for co-workers to perform these tasks.
 4. Number of employees in the Division and in the immediate office.
 5. Estimated cost to make accommodations for the injured worker.
 6. Overall budget for the Division and the office where the position is located.
- a. The Division of Personnel will inform the department and the employee of their decision in writing within 30 days of the request for review.
 - c. Employees may appeal the Division of Personnel's decision directly to the personnel board within 30 days after receipt of the director's decision. Hearings on appeals will be conducted in the manner set forth in 2 AAC 07.435(c) and (d).
4. If the worker is certified as able to return to the previous modified position, the department will immediately send the injured worker a certified letter to confirm the injured worker's intentions to return to their former modified position. (see addendum C and D)
 - a. If the injured worker is not interested in returning to his/her former modified position the department must forward a copy of the signed "not interested" form to the Management Services Unit in the Division of Personnel.
 - b. If the injured worker accepts his/her former position as modified by the department, the department will return the injured worker to the modified position within 30 days of the date the certification from the Director of Vocational Rehabilitation or the Workers' Compensation Employment Benefits Administrator was received by the employing department. If the former position is occupied, the employing agency shall cause a vacancy to be created under the provisions of AS 39.25.150(13). The department must send a copy of the signed acceptance form to the Management Services Unit in the Division of Personnel.
 - c. If the injured worker does not respond to the certified letter within 14 days after receipt, the offer will be deemed refused. The department must forward a copy of the letter and returned certification of receipt to the Management Services Unit in the Division of Personnel.

Returning an Injured Worker to Former or Modified Former Position

ADDENDUM A

December 21, 1990

(name)
(address)
(city, state, zip)

Dear (mr/ms. _____):

Under Alaska Statute 39.25.158, you are entitled to return to your former position which is Position Control Number (PCN) _____ in the Department of _____.

The purpose of this letter is to find out if you are interested in your former position, PCN _____, and if you are interested, to formally offer you PCN _____. To indicate your decision, please sign and return the attached form within 14 days of the date you receive it to:

You may waive your right to return to your previous position and respond "not interested" to an additional position offered to you under the injured workers program without jeopardizing your return rights. You must accept the third position offered to you or lose all injured worker preference rights. IF YOU FAIL TO RESPOND TO THIS LETTER WITHIN 14 DAYS OF THE DATE THIS LETTER IS RECEIVED, YOU WILL NO LONGER BE ELIGIBLE FOR INJURED WORKER PREFERENCE RIGHTS.

Sincerely,

ADDENDUM B

Please check one of the three choices below and return it.

_____ I wish to return to my former position which is PCN _____
with the Department of _____. I accept this
position.

_____ I wish to waive my rights to return to my former position which is
PCN _____, with the Department of _____.
Instead, I wish to return to work in a position at a comparable
wage.

_____ I wish to waive my rights to return to my former position or any other
position with the State of Alaska. I do not intend to return to
work for the State of Alaska at this time and I waive my rights to a
rehire preference under AS 39.25.158.

Name

Date

ADDENDUM C

December 21, 1990

(name)

(address)

(city, state, zip)

Dear (mr/ms.) _____ :

Under Alaska Statue 39.25.158, you are entitled to return to your former position as modified by (explain proposed modification), which is Position Control Number (PCN) _____ in the Department of _____.

The purpose of this letter is to find out if you are interested in your former position, PCN _____ as modified and if you are interested to formally offer you this position. To indicate your decision, please sign and return the attached form within 14 days of the date you receive it to:

You may waive your right to return to your previous position and respond "not interested" to an additional position offered to you under the injured workers program without jeopardizing your return rights. You must accept the third position offered to you or lose all injured worker rehire preference rights. IF YOU FAIL TO RESPOND TO THIS LETTER WITHIN 14 DAYS OF THE DATE THIS LETTER IS RECEIVED, YOU WILL NO LONGER BE ELIGIBLE FOR INJURED WORKER REHIRE PREFERENCE RIGHTS.

Sincerely,

Attachment

ADDENDUM D

Please check one of the three choices below and return it.

_____ I wish to return to my former modified position which is PCN _____ with the Department of _____. I accept this position.

_____ I wish to waive my rights to return to my former modified position which is PCN _____, with the Department of _____. Instead, I wish to return to work in a position at a comparable wage.

_____ I wish to waive my rights to return to my former modified position which is PCN _____, or any other position with the State of Alaska. I do not intend to return to work for the State of Alaska at this time, and I waive my rights to a rehire preference under AS 39.25.158.

Signature

Date