
TEMPORARY MODIFIED DUTY/REASONABLE ACCOMMODATION

This order describes the Department's policies and procedures for temporary modified duty and reasonable accommodation for sworn members of the Department. This order supersedes Information Bulletin #86-133, and all other Bulletins, Orders, Policies or Procedures regarding modified duty and reasonable accommodation. This order contains the Department's entire modified duty and reasonable accommodation policy. This order is intended to be consistent with any rights members may have under law, including without limitation, workers compensation, the Americans with Disabilities Act, and the Fair Employment and Housing Act.

Except for matters related to compensation while engaged in temporary modified duty assignments, nothing in this general order, and no decisions made pursuant to this general order, shall be grievable under the Memorandum of Understanding between the Police Officers' Association and the City.

I. INTRODUCTION

- A. This Department is charged with the duty to protect life and property, to maintain the peace, to prevent crime, to enforce criminal laws and ordinances. These duties are best accomplished when all members are capable of performing the essential functions of their positions. Additionally, the Department's staffing has been impacted by the amendment to the Charter regarding minimum staffing of the Department.
- B. This policy has two parts. First, it outlines the temporary modified duty assignments for members who are temporarily injured or ill. Second, it describes the procedure for members to seek accommodation under State and Federal disabilities laws including the Americans with Disabilities Act and the Fair Employment and Housing Act.

II. TEMPORARY MODIFIED DUTY POLICY

The temporary modified duty policy allows sworn members who have a temporary illness or injury to continue to serve in the Department when they are unable to perform the essential functions of their position.

A. ELIGIBILITY FOR TEMPORARY MODIFIED DUTY ASSIGNMENTS

- 1. With the approval of the Chief of Police or his or her designee, a member who sustains a temporary injury or illness and who is thereby limited from performing the essential functions of his or her position may be provided a temporary modified duty assignment.
- 2. This temporary modified duty policy applies only to sworn members of the Department (hereinafter referred to as "members"). It does not apply to civilian employees or employees in the academy. Probationary employees are eligible to the extent that they can complete all probation requirements within the time period set forth in the current Memorandum of Understanding between the City and the Police Officers' Association.

B. DURATION OF TEMPORARY MODIFIED DUTY ASSIGNMENTS

1. **Limited To 365 Days.** Temporary modified duty assignments shall be limited in duration to a maximum of 365 days. At the end of 30 days of a temporary modified duty assignment, or earlier if warranted, a member shall be reviewed by the Staff Services Division to determine whether the member will be able to return to his or her regular assignment. If the modified assignment extends beyond 30 days, the member's status will be reviewed every 30 days up to the maximum 365-day duration. Approximately 90 days prior to the expiration of the 365 day temporary modified duty assignment, the Department will notify members of the options set forth in subsection 3. below. Prior to the expiration of the 365 day temporary modified duty assignment, the Department will consider and discuss with those members the options set forth in subsection 3. below.
2. **Available Only If Members May Return To Regular Position.** If before or during the temporary modified duty assignment the Department's Physician determines that the member will not be able to return to his or her regular position prior to the expiration of the temporary modified duty assignment, then the Department will consider and discuss with the member the options set forth in subsection 3. below. At this point, the member will no longer be eligible for temporary modified duty. In making this determination, the Department's Physician may consult with the City's independent medical expert, medically examine the member, review medical records, and/or consult with the member's treating physician.
3. **End Of Temporary Modified Duty Assignment.** Once a member is permanent and stationary and/or has served in a temporary modified duty position for 365 days, or earlier if warranted, the Department will consider and discuss with the member the following options: (1) returning the member to full duty; (2) granting a request for a disability accommodation under the ADA and/or state law (which may include a disability transfer under the City's disability transfer policy); (3) recommending disability retirement; (4) providing an unpaid leave of absence pursuant to the Civil Service Rules; (5) allowing sick leave or FMLA leave; or (6) initiating non-punitive medical separation if none of the above are appropriate.
4. **Members Currently On Modified Duty.** Members who are on modified duty as of the effective date of this General Order shall be entitled to a temporary modified duty assignment for a period of 365 days starting the effective date of this General Order. Approximately 90 days prior to the expiration of the 365 day temporary modified duty assignment, the Department will notify members of the options set forth in subsection 3. above. Prior to the expiration of the 365 day temporary modified duty assignment, the Department will consider and discuss with those members the options set forth in subsection 3. above.

C. RULES GOVERNING TEMPORARY MODIFIED DUTY ASSIGNMENTS

1. Temporary modified duty assignments are those assignments within the Department that can be performed by members who temporarily cannot perform the essential functions of their position.
2. Temporary modified duty assignments available to members will be subject to the following limitations:
 - a. Members will not be placed at district stations unless otherwise authorized by the Deputy Chief of Administration, and approved by the Chief of Police. These assignments shall be reviewed every 30 days.
 - b. Members in temporary modified duty assignments shall be eligible for premium pay such as like work-like pay and overtime assignments, including but not limited to PLES overtime, as long as such assignments are consistent with the member's medical restrictions and the needs of the Department. Disputes about this issue will be submitted to the Deputy Chief of Administration for determination.
 - c. Any involuntary transfer or reassignment shall require 48 hours notice, absent an emergency.
3. No sworn member shall be given a temporary modified duty assignment in a budgeted non-sworn position.

D. PROCESS FOR RECEIVING A TEMPORARY MODIFIED DUTY ASSIGNMENT

1. The process for receiving a temporary modified duty assignment begins either when the Department receives: (1) notification from Workers' Compensation Division that a member with an industrial injury may return to work in a modified duty capacity; or (2) a memorandum from a member with a non-industrial injury requesting to return to work in a temporary modified duty capacity.
2. The member's medical work restrictions are reviewed at the Staff Services Division, which shall compare the limitation(s) placed on the member by his or her treating physician with available temporary modified duty assignments. The Department may review the limitation(s) placed on the member by his or her treating physician with the City's independent medical expert and/or the Department Physician.

3. In the event of questions regarding a member's ability to perform (1) the essential functions of a member's position, or (2) modified duties, the Department shall contact the member's treating physician and/or the City's medical expert for clarification. For industrial injuries, if there is a dispute over this issue, a final determination will be made in accordance with Workers' Compensation Rules.
4. The Deputy Chief of Administration may make a recommendation for a temporary modified duty assignment to the Chief of Police. The Chief of Police shall make the final decision regarding the availability of a temporary modified duty assignment based on the member's medical restrictions and the personnel needs of the Department. His or her decision shall also take into consideration the member's job skills, job qualifications, training, experience, and any other relevant factors.
5. If a member is placed in a temporary modified duty assignment, he or she will be required to sign an acknowledgment confirming that he or she understands this policy, including its time limits, and agrees to abide by it.

III. REASONABLE ACCOMMODATION

- A. **POLICY.** Members may request a reasonable accommodation when they have a physical or mental impairment that limits one or more major life *activities*. This impairment may or may not be as a result of a work-related incident. A copy of the City's "Employee Information Sheet Regarding CCSF Reasonable Accommodation Process" is available through the Department's ADA coordinator.
- B. **REQUESTING A REASONABLE ACCOMMODATION.** To request a reasonable accommodation, a member shall contact the Department's ADA coordinator and complete a request for accommodation form and a medical release. The ADA coordinator will engage in the interactive process with the member, and will review whether any reasonable accommodation is possible in the member's position.
- C. **ADA COORDINATOR RECOMMENDATION.** Without disclosing confidential medical information, the ADA coordinator shall present the member's restrictions and a recommendation regarding reasonable accommodation to the Duty Evaluation Committee.

IV. DUTY EVALUATION COMMITTEE.

- A. The Duty Evaluation Committee shall be composed of the following members: the Deputy Chief of Administration Bureau (Chair), the Commanding Officer of the Staff Services Division, the Personnel Sergeant, the Police Physician, and the Department's ADA Coordinator.

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- B.** The Committee shall convene within 30 days of the receipt of the ADA coordinator's recommendation or sooner at the request of the member. At the meeting, the member requesting accommodation is entitled to be present and be represented by the Police Officers' Association or any other representative chosen by the member. The Committee shall consider the following:
- 1.** The nature, extent and seriousness of the member's restrictions, i.e., whether the member has restrictions that limit one or more major life activities.
 - 2.** Whether the member, with reasonable accommodation, could perform the essential functions of his or her full-duty position, including through such methods as restructuring nonessential functions, or other means which do not pose an undue hardship to the Department or pose a direct threat to the health or safety of the members and others.
 - 3.** When the Committee determines that a member cannot be reasonably accommodated to perform the essential job functions of his or her sworn position, the ADA coordinator shall refer the member to the Department of Human Resources for a 60 day concurrent Department and City-wide search for job vacancies which meet the member's medical restrictions and for which the member meets the minimum qualifications. The member may elect not to participate in the Citywide search by notifying the Department of this election in writing.
 - 4.** In addition, when the Committee determines that a member cannot be reasonably accommodated to perform the essential job functions of his or her sworn position, the Committee will consider and discuss with the member of the following options: (1) recommending disability retirement; (2) providing an unpaid leave of absence pursuant to the Civil Service Rules; (3) allowing sick leave or FMLA leave; or (4) initiating non-punitive medical separation if none of the above are appropriate, and the member has not been placed in another position pursuant to the 60 day concurrent Department and City-wide search for job vacancies.
 - 5.** In determining whether to recommend a member for ordinary or industrial disability retirement, the Committee shall consider, any or all of the following: Workers' Compensation Appeals Board determinations(s), Disability Evaluation Unit rating(s), nature and extent of medical restrictions or limitations, body part(s) affected, length of service, and relevant medical reports.
 - 6.** The Duty Evaluation Committee will consider the factors above, and will not consider a member's refusal to participate in the Citywide search or to accept an offered non-sworn position.
 - 7.** Based on all of the above, the Duty Evaluation Committee shall make a determination and shall communicate that to the member in a timely fashion.

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- C. REVIEW TO CHIEF OF POLICE.** If the member disagrees with the determination of the Duty Evaluation Committee, the member may request a review of the Committee's determination by the Chief of Police.

 - D. ACCOMMODATION IN NON-SWORN POSITION.** No member shall be granted an accommodation in a budgeted non-sworn position, unless the position is vacant and the member received a disability transfer to that position pursuant to City policy.
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