

# General Order

## Houston Police Department



ISSUE DATE:

July 2, 2019

NO.

300-09

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 300-09, dated December 10, 2002

**SUBJECT: ABSENCE FROM DUTY – CLASSIFIED**

### POLICY

Houston Police Department employees shall be provided all accommodations required by federal law, state law, City ordinance, City administrative procedure, and department policy regarding absences.

Classified employees who have been absent for over 30 *calendar days* for any reason shall be required to submit to a drug test immediately upon returning to work as outlined in General Order 300-17, **Employee Drug and Alcohol Testing** and City of Houston Executive Order 1-12, *Amended Controlled Substance & Alcohol Abuse*.

The City of Houston operates on a positive pay system. Classified nonexempt personnel are paid from a schedule that requires a 40-hour workweek, which includes meal breaks. Any time period a classified nonexempt employee is not physically at work during his assigned shift shall be accounted for in the Kronos® system, which updates the SAP® system on a biweekly basis. The Kronos and SAP systems are defined in General Order 300-07, **Overtime Compensation – Classified**.

This policy applies to classified employees only.

### DEFINITIONS

**Administrative Personnel Committee (APC).** A departmental committee that is responsible for ensuring compliance with all federal, state, and local laws with respect to determining whether an employee is physically and psychologically fit for duty. APC coordinates with employees who because of injury, illness, or psychological issues are unable to perform their essential job duties.

**Benefit Year.** A plan year beginning September 1 of each *calendar year* and continuing through August 31 of the next *calendar year* and used for the purpose of awarding or calculating benefits payable to employees.

**Injured or Ill Employees and Transitional Duty Report.** The form used to notify the department's Health and Safety Unit (HSU) of employees who are working in a transitional duty assignment or unable to work due to any injury or illness. This form is available on the department's Intranet Portal.

### 1 UNSCHEDULED LEAVE

A leave event is considered to be unscheduled if the leave is requested less than 24 hours prior to the start of the leave being requested unless there is an open position in the Red Book or it is approved by a supervisor as a scheduled leave event. In the event an employee is unable to

report to work, advance notification shall be made to an on-duty supervisor. The employee shall ensure that the on-duty supervisor acknowledges the leave request by either telephone or a response from the supervisor through electronic means. Sending a supervisor an email or text message is not sufficient to ensure the supervisor has been notified unless the supervisor responds to the employee. More than eight unscheduled leave events in a *benefit year* may require a health care provider's statement to be compensated.

Supervisors shall track all unscheduled leave taken by officers under their command and the reason for each unscheduled leave. Regardless of reasons for the first eight unscheduled leave events, a supervisor may require a health care provider's statement for any health-related absence in excess of the eighth unscheduled leave event regardless of the length of each subsequent absence. The health care provider's statement shall be submitted within five *workdays* after returning to work. If the officer fails to submit a health care provider's statement, the employee's supervisor shall carry the officer as being absent without approved leave and the event shall be processed as an unscheduled absence. Division commanders shall ensure that all documentation from health care providers is kept in a locked cabinet. This documentation is subject to audit.

A supervisor may deny a request for unscheduled leave if the supervisor believes the reason given for the request does not justify unscheduled leave or if the unscheduled leave would jeopardize the delivery of necessary police services during that day and shift. However, if the request for unscheduled leave is for health-related reasons, the supervisor shall approve the leave, but may request a health care provider's statement in any instance of potential abuse even prior to the eighth unscheduled leave event. See section 8, *Health-Related Absences*, of this General Order for information regarding patterns of potential abuse of leave for health-related reasons.

If a supervisor requires a health care provider's statement prior to the eighth unscheduled leave event, the supervisor shall immediately notify the division commander via email and provide a copy to the concerned officer regarding the request and the reason for the request. The notification shall be sent prior to the end of the affected shift.

If a single day of unscheduled leave is taken for any reason, the leave event is considered a single unscheduled leave event. Should the unscheduled leave requested extend beyond one day for any reason, up to and including a maximum of three consecutive *calendar days*, the total amount of time taken during that absence shall be considered a single event.

If the unscheduled leave time requested extends beyond one day and the dates are not consecutive *calendar days* or they include regular days off or holidays, then each day that unscheduled time is requested may be considered a separate unscheduled leave event.

Officers shall not work extra employment or scheduled overtime within 24 hours following the start of a shift during which they were on unscheduled leave or on leave due to personal illness or injury.

If an officer burns unscheduled leave during a regularly scheduled shift in the 24-hour period before or after working a Strategic Officer Staffing Program (SOSP) assignment or an overtime program, it shall constitute an Earn and Burn policy violation unless one of the exceptions noted in General Order 300-07, **Overtime Compensation – Classified** applies.

**2 PAID TIME OFF (PTO)**

Paid time off (PTO) incorporates and replaces all former sick leave (Compensable Sick Leave Plan [CSL] and Modified Sick Leave Plan [MSP]) and vacation leave banks for classified employees. It does not include personal days, compensatory time, or deferred holiday time banks. A detailed description of PTO may be found in the Meet and Confer Agreement. Compensatory time and deferred holiday time are addressed in General Order 300-07, **Overtime Compensation – Classified** and General Order 300-36, **Exempt Time Compensation and Exempt Time Credit**.

**Accrual**

PTO accruals shall be biweekly. The City of Houston Administration and Regulatory Affairs (ARA) Department, Payroll Services Division shall determine accruals per pay period. The rate of PTO accrual for officers is based on years of service as follows:

Years of Service	Hours Accrued per Benefit Year
Through 9 <sup>th</sup> year	160 hours
10 <sup>th</sup> – 14 <sup>th</sup> years	200 hours
15 <sup>th</sup> year	240 hours
16 <sup>th</sup> year and over	8 additional hours for each year to a maximum of 320 hours per year

Years of service for PTO are calculated from the Compensation Date (a.k.a. Comp Date). See General Order 300-03, **Seniority**, for information on the Comp Date. PTO accruals are per pay period and are the number of hours according to the above table divided by 26, regardless of the number of hours in an officer's *workday*.

Police cadets receive PTO accruals biweekly at the rate of 120 hours annually. Police cadets shall not use PTO during their first six months of employment even though it is accumulating.

In accordance with the Meet and Confer Agreement, vacation and sick leave balances were given a frozen value prior to the beginning of the PTO program (on September 1, 2001).

Additionally, the PTO hours not used during a *benefit year* shall be assigned a frozen value in the same manner as MSP rates and added to the employee's total balance (MSP + Frozen CSL + Frozen Vacation + PTO) at the end of the benefit year. However, if the employee's total balance exceeds the applicable cap at any time in the benefit year, the amount of additional PTO hours that may be carried over to the next benefit year is limited to a maximum of 120 hours each year over the applicable cap. The cap is 5,000 hours for officers sworn before March 30, 2011, and 2,500 hours for officers sworn on or after March 30, 2011. If the employee requested PTO in a timely manner (at least 90 *calendar days* before the end of the benefit year) to prevent a loss of PTO leave benefits and was not allowed to take the leave, the employee shall be allowed to carry over the 120 hours plus any additional hours of leave that were requested but not allowed to be taken.

If an employee leaves employment with the City for any reason, accumulated PTO and other accruals shall be paid in accordance with the terms of the Meet and Confer Agreement, laws, and City ordinances applicable at the time.

### Scheduling

PTO is scheduled at the division level. Division commanders shall ensure PTO is scheduled according to the following guidelines:

- a. Employees shall be given their first choice by seniority, except when application of seniority creates a void in personnel skills, experience, or knowledge in a particular assignment.
- b. An employee transferring to a division shall not bump another employee with lesser seniority out of a previously approved PTO period. When employees' PTO has been approved prior to their transfer, they shall be allowed to take the PTO as originally scheduled, unless doing so would disrupt the operations of the division or unit.
- c. Probationary police officers shall not be granted time off except for an emergency and as approved by their division commander.
- d. Employees in the department's Early Warning System Program shall have some restrictions placed on requests for time off to ensure the timely completion of the Program. See General Order 300-24, **Early Warning System**.
- e. Use of PTO requires a supervisor's approval. When a supervisor receives a request for the use of PTO, it shall be approved unless to do so would be unduly disruptive to the operation of the unit.
- f. When a holiday occurs during an employee's PTO period, the holiday shall be considered observed and that day shall not be charged against the PTO.
- g. PTO requests for more than 15 of the employee's consecutive *workdays* shall require approval by the division commander. If the request is due to health or injury related reasons, the division commander shall ensure that the Family and Medical Leave Act (FMLA) *forms packet* has been provided to the employee and that the employee has been placed on the *Injured or Ill Employees and Transitional Duty Report*.

Officers may schedule and take up to and including 320 hours of PTO in a *benefit year* with a supervisor's approval and as outlined above.

Officers may schedule in excess of 320 hours of PTO but not more than 720 hours of PTO in a benefit year with written approval from their executive assistant chief. Officers shall submit written correspondence through their chain of command to their executive assistant chief noting the circumstances of the request. Division commanders shall attach written correspondence with a recommendation regarding the employee's leave request. If the employee's request is due to a personal illness or injury, the division commander shall include in the correspondence whether or not the employee is currently being evaluated and monitored by the Administrative Personnel Committee (APC).

Regardless of the leave bank from which hours are taken (MSP, Frozen CSL, Frozen Vacation, or PTO), the leave taken shall count toward the above PTO hourly totals.

### 3 PERSONAL DAYS (PD)

For details regarding accrual of Personal Days (PD) see the Meet and Confer Agreement. In addition:

- a. The PD hours shall be credited to each officer on September 1 of each benefit year.
- b. An officer who becomes eligible for PD hours after the beginning of a benefit year shall receive a proportional number of PD hours for the remaining months in the benefit year.
- c. PD hours may be used for personal reasons and/or for any approved FMLA absence.

All PD hours shall be utilized during the benefit year in which they are received, or they shall be forfeited. In order to avoid forfeiture of hours, an officer must request time off for PD hours from the department at least 90 *calendar days* before the end of the benefit year in which the PD hours are received.

If an officer requests in a timely manner to utilize PD hours to prevent the loss of time and the department does not allow the officer to take the leave requested, the officer shall be allowed to carry over to the next benefit year the PD hours the department does not allow the officer to utilize.

PD hours shall have no cash value on termination and shall not be counted as time worked for purposes of nonexempt employees voluntarily working Strategic Officer Staffing Program (SOSP) assignments. PD hours shall be usable by nonexempt officers in the Phase Down Program (PDP). Probationary police officers who are terminated for any reason shall not receive PD hour benefits.

### 4 COMPENSATORY TIME

Compensatory time is addressed in General Order 300-07, **Overtime Compensation – Classified**.

### 5 MILITARY LEAVE

Officers required to perform military duty shall be allowed up to and including 15 *workdays* per federal fiscal year (October 1 through September 30). These military leave absences shall be recorded in Kronos by ARA's Payroll Services.

Absences in excess of 15 *workdays* for military training shall be charged to the officer's PTO, PD, compensatory time, or deferred holiday time bank, which shall be recorded in Kronos by the division timekeeper, provided the officer has not been granted an unpaid leave of absence. An officer not on a Military Wartime Leave of Absence shall be permitted to use unpaid leave to satisfy his military training requirement if he so chooses. If the officer has no PTO or other authorized leave remaining or is on an unpaid leave of absence, the officer shall not receive pay. All time recorded for officers on a Military Wartime Leave of Absence shall be recorded by ARA's Payroll Services.

When possible, officers shall submit requests for military leave at least two weeks prior to the effective date of the leave. A copy of the military order shall be forwarded through the chain of command to ARA's Payroll Services, via the appropriate assistant chief or civilian equivalent.

## 6 FUNERAL LEAVE

In case of death in the immediate family of an officer, the division commander may excuse an officer from reporting for duty for as many as three *workdays*. Immediate family includes father, mother, sister, brother, husband, wife, child, grandparents, and other relatives if, in the opinion of the division commander, such officer's presence would be required due to their individual relationship and the circumstances of the case. Additional leave beyond the three funeral leave days may be granted by taking the additional time from one of the officer's leave banks. Employees shall not work extra employment during normal duty hours while on paid funeral leave. Funeral leave absences shall be recorded in Kronos by the division timekeeper.

## 7 OTHER LEAVE

### Jury Duty

Officers shall be permitted to serve on a jury with no loss of pay even if it occurs during their shift. A copy of the jury summons shall be presented to the officer's immediate supervisor at the time of notification. The period of absence shall not exceed the time specifically required for the officer to complete jury duty. There shall be no additional compensation beyond the officer's regular shift.

### Voting

Officers shall be allowed to vote in local, state, or federal elections with no loss of pay provided the performance of official duties during their regularly scheduled off-duty time did not allow them adequate time to vote. Officers shall notify their supervisors of the need for time off to vote as soon as possible.

## 8 HEALTH-RELATED ABSENCES

Any type of leave taken due to personal injury, possible psychological issue, or extended illness requires notification by the employee to a supervisor that there is a health-related reason for the time off request. Division commanders shall ensure that employees are listed on the *Injured or Ill Employees and Transitional Duty Report* when applicable, and that FMLA guidelines are followed.

When a holiday occurs during an employee's injured on duty (IOD) leave, the holiday is considered observed and the absence is not charged against the IOD leave.

Division commanders shall submit an *Injured or Ill Employees and Transitional Duty Report* each Friday to the department's Health and Safety Unit in accordance with General Order 300-10, **Transitional Duty Assignment**, and per the instructions on the report.

For all health-related absences in excess of 64 hours in each *benefit year*, the officer shall present a health care provider's statement indicating the officer was seen for the illness or injury. The health care provider's statement shall be submitted within five *workdays* after returning to work. Division commanders shall ensure that all documentation from health care providers is kept in a locked cabinet. This documentation is subject to audit. Absences covered by FMLA or workers' compensation shall not be charged against this 64-hour threshold.

Supervisors shall regularly monitor leave taken for health-related reasons to identify any patterns of usage and possible abuse and to mitigate any adverse impact to other employees or police services. Abuse of leave for health-related reasons may be indicated by, but not limited to, any of the following patterns of leave taken for *health-related reasons*:

- a. Leave taken consistently on the day immediately before or after the officer's regular days off.
- b. Leave taken consistently on the day before or after a holiday.
- c. Leave taken after a non-health-related leave request was denied.
- d. Leave taken when difficult assignments or projects are scheduled or due.
- e. Leave taken following counseling or disciplinary action.
- f. Leave taken when the supervisor is on leave.
- g. Leave taken to avoid having to assume additional duties when coworkers are on scheduled leave.

## **9 FAMILY AND MEDICAL LEAVE ACT (FMLA)**

Employees who have worked for the City for a total of 12 months (not necessarily consecutively) and who have been physically at work for at least 1,250 hours during the preceding twelve months are entitled to a maximum 12 weeks of FMLA leave during the *benefit year*. Exceptions are noted below.

Officers may take FMLA leave for any of the following reasons:

- a. The birth of a child and in order to care for the child.
- b. The placement of a child with the employee for adoption or foster care.
- c. To care for a spouse, child, or parent with a serious health condition.
- d. The officer's own serious health condition that renders the officer unable to perform the functions of the officer's position.
- e. Certain qualifying exigencies arising out of the fact that the spouse, son, daughter, or parent of the officer is on covered active duty in the Armed Forces or has been notified of an impending call or order to active duty in the Armed Forces.

- f. To care for a covered service member recovering from a serious injury or illness incurred in the line of duty on active duty in the Armed Forces. This "Military Caregiver Leave" allows an eligible employee who is the spouse, son, daughter, parent, or next of kin of the service member to take up to a total of 26 weeks of FMLA leave in a single 12-month period. Eligible employees are limited to a *combined total* of 26 weeks of *all* types of FMLA leave during the single 12-month period.

Spouses who are employed by the City shall be limited to a combined total of 12 weeks of FMLA leave during the benefit year if the leave is taken for the birth of a child, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

It is mandatory for employees to notify their supervisor when they have a serious health condition that may qualify for FMLA leave. Although it is not always necessary for employees requesting FMLA leave to explicitly mention FMLA by name, employees are required to provide employers with sufficient information about their absence to help an employer understand that it may be an FMLA protected situation. Employees shall provide notice as soon as possible. Generally, employees shall request leave 30 *calendar days* in advance when the need is foreseeable. Employees shall also tell employers the anticipated duration of the leave. Proper notification allows the officer to receive statutory notices and any other documentation, certification, or notice necessary to qualify for such protected leave.

The officer and the officer's immediate supervisor are responsible for notifying the HPD FMLA Coordinator in the City of Houston Human Resources Department when a possible FMLA leave situation arises. Supervisors shall remain vigilant in order to recognize FMLA triggering events. Supervisors who become aware of or learn that an employee under their command may have a qualifying FMLA event shall notify the employee of the employee's ability to apply for FMLA leave. In addition, if an officer has been absent for more than three consecutive *workdays* and the possibility exists that it is for any of the aforementioned reasons the supervisor shall notify the officer of the officer's ability to apply for FMLA leave.

Only the HPD FMLA Coordinator is authorized to determine whether an officer is eligible for FMLA leave. An officer's eligibility for FMLA leave is contingent upon the officer's compliance with all FMLA reporting requirements. FMLA leave is an entitlement; therefore, if the officer and the event qualify under FMLA guidelines, no department approval is required for the officer to use FMLA leave.

The HPD FMLA Coordinator is responsible for maintaining current FMLA leave rules and procedures. The HPD FMLA Coordinator is also responsible for providing the appropriate FMLA forms to an officer who may have an FMLA qualifying circumstance and shall handle all follow-ups on medical certifications.

Within 15 *calendar days* following the date the FMLA *forms packet* is issued, the officer or his designee shall complete and submit the FMLA *forms packet* to the HPD FMLA Coordinator. The HPD FMLA Coordinator shall notify the officer whether or not the FMLA eligibility guidelines are met.

Eligible officers are *required* to use certain types of time off while on FMLA leave. Those seeking to take FMLA leave for their own illness or injury shall use all time off accumulated in their leave banks (except for compensatory time) before unpaid FMLA leave can be used. Officers seeking to take FMLA leave for other reasons shall use all paid leave accumulated in

their leave banks (except No Value Leave Bank [NVLB] and compensatory time) before unpaid FMLA leave can be used. Officers may use PD hours for an FMLA qualifying event.

Accrued paid leave used for an FMLA qualifying reason shall be counted against the officer's 12-week (or 26-week, if applicable) FMLA entitlement.

Before returning to work from a personal illness, health condition, or injury, the employee shall provide written documentation from the health care provider stating that the employee is able to return to work at full duty with no restrictions. At the end of authorized FMLA leave, the officer is entitled to return to the same or an equivalent position.

If an employee is not able to return to work at full duty at the end of the FMLA period, the employee shall be referred to APC (see section 10 below). This may not pertain to intermittent FMLA cases or FMLA requests of less than 12 weeks.

Supervisors suspecting employees of abuse of FMLA shall contact the HPD FMLA Coordinator.

## **10 ADMINISTRATIVE PERSONNEL COMMITTEE (APC) REFERRALS**

When an employee is absent or unable to perform the essential job duties of his or her position, the concerned division commander may be required to notify the APC chair. Division commanders shall see General Order 300-10, **Transitional Duty Assignment**, for circumstances and requirements.

In addition, all employees are responsible for notifying the APC chair in writing about the circumstances of any employee who because of an apparent medical or psychological condition is possibly a danger to himself or others.

The APC notifications outlined in this section are required whether or not the employee's injury or condition is due to a work-related incident. At the discretion of the APC chair, the issue may be forwarded to the department's Office of Legal Services for review.

APC notifications are not required for pregnant employees.

## **11 ADVERSE WEATHER**

All classified employees are required to report to their regular assignments during adverse weather conditions unless they are on approved leave or unless otherwise directed.

If officers are unable to report to their regular assignments because of adverse weather conditions, they shall notify the appropriate supervisor of the specific weather conditions preventing them from reporting to work. The officer shall make every effort to report to work as soon as weather permits.

The absent officer shall be carried on the payroll as present and shall make up the missed time as soon as possible by working additional hours comparable in number to those missed or by using any authorized leave. Information on reporting to work during an emergency response is addressed in General Order 200-10, **Emergency Management**.

## 12 UNPAID LEAVE OF ABSENCE

Unpaid leaves of absence that are requested for reasons covered under the FMLA shall be addressed according to section 9, *Family and Medical Leave Act (FMLA)*, of this General Order. Other requests for unpaid leaves of absence shall be handled as outlined in this section.

Officers requesting an unpaid leave of absence due to a personal illness or injury must exhaust *all* personal leave before unpaid leave can be authorized.

Officers requesting an unpaid leave of absence for any reason other than a personal illness or injury must exhaust all personal leave except No Value Leave before unpaid leave can be authorized.

Requests for an unpaid leave of absence to pursue a career with another employer shall not be granted.

Employees requesting an unpaid leave of absence or an extension thereof shall submit correspondence via the employee's chain of command to the Chief of Police. The correspondence shall:

- a. Outline the reasons for the request.
- b. Include the effective date as to when leave without pay is scheduled to begin.
- c. Provide an anticipated return to duty date.

Division commanders shall attach written correspondence with a recommendation regarding the employee's leave request. If the employee's request is due to a personal illness or injury, the division commander shall include in the correspondence whether or not the employee is currently being evaluated and monitored by APC.

Unpaid leaves of absence for 14 or fewer consecutive *calendar days* may be approved by the Chief of Police.

Unpaid leaves of absence in excess of 14 *calendar days* but less than or equal to 180 *calendar days* require approval by the Police Officers' Civil Service Commission before such leaves shall be authorized. Unpaid leaves of absence in excess of 180 *calendar days* require approval by City Council before such leaves shall be authorized.

Officers absent without pay are required to immediately contact the City of Houston Human Resources Department to make arrangements for continuation of medical and other insurance benefits. Officers returning to work following an unpaid leave of absence shall contact the Police Department Employee Services Division for information regarding reinstatement and/or continuation of benefits and pay.

## 13 UNAUTHORIZED ABSENCES

An unauthorized absence is an absence that was not approved by the department or that was properly denied. Officers who are absent from work for three or more consecutive *workdays*

without notification to their supervisor may receive disciplinary action up to and including indefinite suspension.

**14 REFERENCE MATERIAL**

**Meet and Confer Agreements (Civilian and Classified)**

**City of Houston Executive Order 1-12, Amended Controlled Substance & Alcohol Abuse**

**City of Houston Mayor's Memorandum, Absenteeism and Sick Leave Usage, April 19, 2017**

  
**Art Acevedo**  
**Chief of Police**