

General Order

Houston Police Department



ISSUE DATE:

October 11, 2019

NO.

900-01

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 900-01, dated May 10, 2017

SUBJECT: ABSENCE FROM DUTY – CIVILIAN

POLICY

The Houston Police Department shall adhere to all federal and state laws and City rules pertaining to employee absences.

Civilian employees who have been absent for over 30 *calendar days* for any reason *AND are returning to certified safety impact positions* 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 Risk Management Division's Employee Drug Testing Unit maintains a list of certified safety impact positions.

When a holiday occurs during an employee's authorized leave period, the holiday shall be considered observed and that day shall not be charged against the employee's leave. Holiday leave is addressed in more detail in General Order 900-07, **Overtime Compensation – Civilian**.

This General Order applies to civilian 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

Civilian employees shall comply with the requirements below unless directed by a supervisor to meet more stringent requirements.

A leave event is considered to be unscheduled if the leave is requested less than 24 hours prior to the start of the leave, unless it is approved by a supervisor as a scheduled leave event. If a division commander requires a specific time period for advance notice, the commander shall include that requirement in the division's standard operating procedures (SOPs) pursuant to General Order 100-07, **Standard Operating Procedures**.

In the event an employee is going to be tardy or unable to report to work due to an unscheduled event, the employee shall communicate with the direct supervisor or other on-duty supervisor in the division before the employee's shift begins. As soon as possible, the supervisor shall advise the employee of receipt of the leave request or tardy notification. The employee shall ensure that the on-duty supervisor acknowledges the leave request or notification of tardiness.

All communications delivered by employees regarding an unscheduled leave or tardiness shall:

- a. Clearly identify the employee.
- b. Clearly explain the reason for the employee's absence or tardiness.
- c. Provide the employee's anticipated return to or arrival for work, as applicable.
- d. Provide a working telephone number at which the employee or a designated individual acting on behalf of the employee may be reached to discuss the condition or circumstance that has resulted in the employee's absence or tardiness.

Such communications may be delivered by a friend or family member on behalf of the employee in the event the employee is incapable of initiating and/or delivering a required communication. However, all such third-party communications shall expressly indicate the reason why the employee is not able to contact the supervisor, shall be delivered in accordance with this policy, and shall include the information required in items (a) through (d) above.

2 VACATION LEAVE

Except as provided below, accruals of vacation time shall be limited to a maximum of 420 hours per the Meet and Confer Agreement (Civilian).

Persons who were employed by the City on October 1, 2003, and who have a Compensation Date (a.k.a. Comp Date) for vacation benefit purposes that is prior to January 1, 2000, shall be subject to a vacation accrual limit of 840 hours as long as they remain continuously employed by the City without a gap in service.

Employees who use over 240 vacation hours in any one *calendar year* shall obtain prior approval from their assistant chief or civilian equivalent in writing via the chain of command.

No employees shall accumulate vacation leave until they have been in the City's service for a period of six months. Employees with six or more months of service who continue in employment with the City of Houston are eligible to receive all vacation time accrued during those first six months of service.

Employees who separate from the City for any reason after completing six months of service shall be paid for accumulated vacation leave up to a maximum of 360 or 720 hours, depending on the employee's Comp Date.

If an employee is forced to leave employment with the City because of an illness, injury, or death, and the employee has completed six months or more of service, the employee or the employee's beneficiaries shall be paid the full amount of the employee's salary for a maximum of 360 or 720 accumulated vacation hours, as applicable, at the employee's then current rate of pay.

When it is necessary for an employee to be called back from vacation or if a vacation is scheduled but not taken, the Kronos® and SAP® systems shall be updated to reflect the employee's actual status.

Vacation requests, if approved, are scheduled at the division level. Division commanders shall ensure vacations are 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 vacation period. When employees' vacations have been approved prior to their transfer, they shall be allowed to take the vacations as originally scheduled, unless doing so would disrupt the operations of the division or unit.
- c. Newly hired employees shall not be granted vacation leave during their probationary period except for an emergency and as approved by their division commander.
- d. Use of vacation leave requires a supervisor's approval. When a supervisor receives a request for the use of vacation leave, it shall be approved unless to do so would be unduly disruptive to the operation of the unit.
- e. Employees can use vacation time if calling in sick. Sick leave is addressed in detail in the following section.

3 SICK LEAVE

Absences resulting from an employee's illness, medical condition, or off-duty injury or a family member's illness or medical condition may be charged to the employee's accumulated sick leave.

Employees who are ill shall contact a supervisor prior to their reporting time and request that they be given leave for that *workday*. The supervisor shall grant the request, but may require a health care provider's statement in any instance of potential abuse of sick leave.

Employees who call in sick for their regular shift shall not work extra employment or scheduled overtime within 24 hours following the start of the shift for which they called in sick.

Each division timekeeper shall provide a monthly *Sick Leave Report* to the division commander identifying employees who have used 64 or more sick leave hours in the *benefit year*. Timekeepers shall generate this report from the SAP or Kronos systems.

Health Care Provider Statement

Sick leave absences in excess of 64 hours in a benefit year shall be documented with a health care provider's statement regardless of the length of each subsequent absence or the nature of the illness. Employees shall submit a health care provider's statement within five *workdays* after returning to work. The supervisor authorizing the sick leave is responsible for ensuring that the employee provides a health care provider's statement upon returning to work and shall take appropriate action if the employee fails to timely submit the required health care provider's statement. If an employee fails to submit a health care provider's statement, the supervisor shall carry the employee as having been absent without approved leave and the event may be processed as an unauthorized absence. 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 the Family and Medical Leave Act (FMLA) or workers' compensation shall not be charged against the 64-hour sick leave threshold.

Abuse of Sick Leave

Abuse of sick leave occurs when an employee uses sick leave for reasons other than the employee's or family member's illness or medical condition. Sick leave abuse may be suspected when an employee uses an inordinate amount of sick days. Abuse of sick leave shall be investigated in accordance with department policy. When there is a potential abuse of sick leave, supervisors may require verification of an employee's illness or medical condition by a health care provider's statement or other means before the employee has used 64 hours of sick leave in a benefit year. See section 10, *Health-Related Absences*, of this General Order for information regarding patterns of potential abuse of leave for health-related reasons.

Modified Sick Leave Plan (MSP)

Employees in the Modified Sick Leave Plan (MSP) earn sick leave at the rate of 4 hours and 37 minutes each pay period with a final adjustment during August of each benefit year for a total of 120 hours per year. Unused sick leave may be accumulated without limit. As sick leave is used, the hours are charged first to the oldest accumulated leave and then, if necessary, to the sick leave earned during the current benefit year.

After the conclusion of each benefit year, any sick leave accrued during the benefit year that was not utilized during the benefit year shall be valued based on the employee's average base pay plus longevity during the benefit year. The leave is accumulated for use later (if needed) or payable to the employee or to the employee's beneficiaries, as applicable, when the employee separates from employment with the City of Houston.

If an employee's illness continues after all sick leave has been used, no further sick leave benefits shall be paid (except as noted in General Order 300-29, **Donation of Time**).

Compensable Sick Leave Plan (CSL)

All employees hired after August 31, 1985, or who elected to change to the Income Protection Plan (IPP), are covered by the Compensable Sick Leave Plan (CSL). These employees shall accrue 2 hours and 30 minutes of sick leave per pay period (65 hours annually).

Until the employee's CSL balance reaches 1,040 hours, the unused portion of the 65-hour annual accrual shall be matched and added to the employee's balance at the end of each benefit year. If an employee uses more than 65 hours in a benefit year, the excess hours shall come from the employee's balance until depleted.

After the employee's CSL balance reaches 1,040 hours, the unused portion of the 65-hour accrual shall be credited to the balance without doubling. Upon separation from employment with the City of Houston, all unused accumulated sick leave time in excess of 1,040 hours shall be payable to the employee or to the employee's beneficiaries, as applicable, at the employee's rate of base pay plus longevity at the time of separation.

If an employee's illness continues after all sick leave has been used, no further sick leave benefits shall be paid (except as noted in General Order 300-29, **Donation of Time**).

4 WELLNESS LEAVE

Wellness leave of 8 hours each benefit year is to be used for *preventative health care*. Wellness leave shall not be charged against an employee's CSL balance, but shall be charged against an employee's MSP balance. Wellness leave shall not count toward the 64-hour sick leave threshold. A health care provider's verification is required for each wellness leave event. New employees must be employed a full benefit year before they are eligible for wellness leave. Wellness leave hours shall be used during the benefit year in which they are awarded. Wellness leave hours do not accumulate and they are not transferable from one benefit year to another benefit year.

5 PERSONAL LEAVE HOURS

Personal leave hours are granted as a special incentive to CSL participants who used no more than 16 hours of sick time during the preceding full benefit year. Personal leave hours are earned according to the following schedule:

Sick Hours Used In Prior Benefit Year	Personal Leave Hours Earned
0 Hours	24 Hours
1-8 Hours	16 Hours
9-16 Hours	8 Hours
Over 16 Hours	0 Hours

Personal leave hours may be used in the same manner as vacation; however, they must be used during the benefit year in which they are awarded. Personal leave hours do not accumulate and they are not transferable from one benefit year to another benefit year. No compensation of any sort will be granted for personal leave hours that are not timely used during the benefit year in which they are awarded.

6 COMPENSATORY TIME

Compensatory time is addressed in General Order 900-07, **Overtime Compensation – Civilian**.

7 MILITARY LEAVE

Employees required to perform military duty shall be allowed up to and including 15 *workdays* per federal fiscal year (October 1 through September 30). Absences shall be reported in Kronos and SAP.

Absences in excess of 15 *workdays* for military training shall be charged to the employee's vacation or compensatory time bank, provided the employee has not been granted an unpaid leave of absence. If the employee has no vacation time or compensatory time or is on an unpaid leave of absence, the employee shall not receive pay.

When possible, employees 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 the appropriate assistant chief or civilian equivalent.

8 FUNERAL LEAVE

In the case of death in the immediate family of an employee, the division commander may excuse an employee 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 employee's presence would be required due to the employee's individual relationship and the circumstances of the case. Additional leave beyond the three funeral days may be granted by taking the additional time from the employee's accrued paid leave banks. Funeral leave absences shall be reported in Kronos and SAP.

9 OTHER LEAVE

Jury Duty

Employees 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 employee's immediate supervisor at the time of notification. The period of absence shall not exceed the time specifically required for the employee to complete jury duty. There shall be no additional compensation beyond the employee's regular shift.

Voting

Employees shall be allowed to vote in local, state, and 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. Employees shall notify their supervisors of the need for time off to vote as soon as possible.

10 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.

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 employee'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.

11 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.

Employees 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 employee's own serious health condition that renders the employee unable to perform the functions of the employee's position.
- e. Certain qualifying exigencies arising out of the fact that the spouse, son, daughter, or parent of the employee 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 employee to receive statutory notices and any other documentation, certification, or notice necessary to qualify for such protected leave.

The employee and the employee's immediate supervisor are responsible for notifying the HPD FMLA Coordinator in the FMLA Section of 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 employee 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 employee of the employee's ability to apply for FMLA leave.

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

The FMLA Section of the City's Human Resources Department is responsible for maintaining current FMLA leave rules and procedures. They shall provide the employee with a *forms packet* that outlines employee responsibilities and reporting requirements. The packet shall be

completed by the employee in a timely manner and submitted to the FMLA Section of the City's Human Resources Department.

The FMLA Section of the City's Human Resources Department shall notify the employee whether or not the FMLA eligibility guidelines are met.

Eligible employees are *required* to use certain types of accrued paid leave while on FMLA leave. Employees seeking to take FMLA leave must use all paid leave accumulated in their sick and vacation leave banks only, before unpaid FMLA leave can be used. Other types of accrued paid leave shall not be used for FMLA leave.

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

At the end of authorized FMLA leave, the employee is entitled to return to the same or an equivalent position.

Supervisors suspecting employee abuse of FMLA shall contact both the HPD FMLA Coordinator in the FMLA Section of the City's Human Resources Department and the HPD Office of Legal Services.

12 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 chair of the Administrative Personnel Committee (APC). 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.

13 ADVERSE WEATHER

If employees 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 employee shall make every effort to report to work as soon as weather permits.

The absent employee 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 the employee shall account for the time missed by using any authorized leave.

Tier designation determines an employee's reporting requirements during severe weather or other emergency conditions. City of Houston personnel are designated as either "Tier 1" or "Tier 2."

Tier 1 includes civilian equivalents of commander and above and other employees as designated by the department. Tier 1 employees shall report to work unless otherwise directed.

Tier 2 includes civilian personnel without immediate, specific emergency roles but who may be necessary to execute duties for the department under certain circumstances. Tier 2 employees are to be on call and are essential when notified by a supervisor they are required to report to work. When severe weather conditions or other emergency situations are anticipated or have occurred, employees designated as Tier 2 shall contact their supervisor or another supervisor in the employee's assigned division, command, or office to ascertain whether they are required to report to work or receive other directions as appropriate.

Division commanders shall communicate in writing to each civilian employee in their respective division, command, or office whether the civilian employee's position is designated as Tier 1 or Tier 2.

14 UNPAID LEAVE OF ABSENCE

Unpaid leaves of absence that are requested for reasons covered under the FMLA shall be addressed according to section 11, *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.

Employees who have exhausted all available paid leave and require additional leave may make a written request to the Chief of Police for a leave of absence without pay. The Chief of Police may grant leaves of absence without pay for as many as 14 consecutive *calendar days* for full-time employees.

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 in excess of 14 *calendar days* but less than or equal to 180 *calendar days* require approval by the 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.

Employees 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. Employees 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.

15 UNAUTHORIZED ABSENCES

Unauthorized absences are subject to disciplinary action up to and including indefinite suspension. Employees who are absent without authorized leave for three consecutive *workdays* without good cause and without notifying their supervisor are assumed to have resigned their position and appropriate actions may be taken by the department to initiate termination or indefinite suspension.

16 REFERENCE MATERIAL

City of Houston Code of Ordinances Chapter 14

City of Houston Administrative Procedure 3-2 Revised, Family and Medical Leave

City of Houston Administrative Procedure 3-11, Absence

City of Houston Executive Order 1-12, Amended Controlled Substance & Alcohol Abuse Meet and Confer Agreement (Civilian)

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



Art Acevedo
Chief of Police